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OFFICE OF NATIONAL RECOVERY ADMINISTRATION

DIVISION OF REVIEW

CODE COMPLIANCE ACTIVITIES OF THE NATIONAL RECOVERY ADMINISTRATION

By

Frank Hursey
John B. Jago Mackenzie Shannon
Donald Frothingham W. W. Swift
Howard C. Dunn

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NRA ORGANIZATION STUDIES SECTION
MARCH, 1936

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F O R E W O R D

This study of the Code Compliance Activities of the National Recovery Administration was prepared by Messrs. Frank Hursey, unit chief, John B. Jago, Donald Frothingham, Mackenzie Shannon, W. W. Swift and Howard C. Dunn, of the NRA Organization Studies Section, Mr. William W. Bardsley in charge.

It has been the purpose of the study primarily to furnish a synopsis of the problems encountered by the Recovery Administration in the securing of compliance with the provisions of codes of fair competition, of the methods used to bring about compliance and an appraisal of the results obtained.

Such a purpose has in no way contemplated an analysis of the social and economic theories underlying the National Industrial Recovery Act; neither has it been concerned with the presentation of historical data or statistical matter, except insofar as such data or material is directly concerned with NRA compliance problems and methods.

At the back of the report will be found a brief statement of the subjects undertaken by the Division of Review.

L. C. Marshall,

March 27, 1936. Director, Division of Review.

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SUMMARY

This report is divided into five chapters. It endeavors to show the problems faced by the National Recovery Administration in bringing about compliance with the codes, the methods used to attain this end and some estimate of the results obtained.

Chapter I defines the term "compliance" and indicates the scope of its meaning as it appears in this report.

Chapter II outlines the legislative policy with regard to enforcement and compliance as they appear in the National Industrial Recovery Act.

Chapter III deals with the field covered by compliance, the geographical extent and volume of the enterprises regulated by the codes and the extent of the social structure of the nation affected by them. It indicates certain difficulties inherent in industry regulations and the variety and complexity of the regulations imposed by the codes. It explains the difficulties arising from the attempt to apply certain code regulations to specific situations. It points out the narrow scope or rather total lack of enforcement powers granted to NRA by the Act. It touches on the effect of legislative policy on compliance. It indicates certain problems arising from the attempt to administer the compliance activities of NRA in accordance with the policy decided upon, the division of responsibility and authority and the training of personnel. It deals with the difficulties encountered in the attempt to encourage industry to govern itself and the problems created for NRA in its own compliance activities by the compliance activities of industry. It attempts to point out the effects on compliance of the court actions prosecuted under the authority of the Act. It deals with the factor of public opinion.

Chapter IV outlines the methods used by NRA in its efforts to obtain compliance with the codes. It describes the procedure followed by the field offices of NRA in adjusting code violations under the passive complaint system. It then describes the procedure for handling violation cases under the mass compliance system which system called for the active policing of industry by the Compliance Division field offices and was not confined to the handling of cases only after a complaint had been made by some person outside NRA. It outlines the adjustment method of handling code violation and the policy of obtaining restitution of back wages in labor violation cases. It describes the manner in which insignia and labels were used by the Administration in its efforts to obtain compliance with the codes and to dispose of cases of non-compliance.

Chapter V attempts to evaluate the results obtained by the methods used and presents statistical data indicating these results.

CHAPTER I

INTRODUCTION - DEFINITION

DEFINITION

The term "Compliance" has been defined as the acting in accordance with, or the yielding to the desire, request, condition, direction, etc.; a consenting to act in comformity with; amicable relations (between parties). (*)

The NRA Office Manual defines "Administration for Compliance" as "the process of securing compliance and as far as possible obtaining restitution for past violations, without resort to the courts".

The term is used with respect not only to codes but also to agreements with the President and to regulations prescribed by the Executive and Administrative Orders. Administration for compliance largely relied on education and explanation and on the weight of public opinion within the industry.

The compliance problem was therefore, that of obtaining compliance by persuasion, education and cooperation instead of by force. It rested primarily on the strength of public opinion and varied with the rise and fall of favorable public opinion.

For such methods to secceed, it was essential to secure the cooperation of the public and of the industries directly affected by the codes.

With these two objectives in mind, NRA created and distributed the Blue Eagle which was to advise the public which members of industry were complying with their codes; and it attempted to support a large measure of industrial self-government through code authorities and their compliance agencies.

It should be remembered that the National Industrial Recovery Act provided as a means of its enforcement Cease and Desist Orders to be issued by the Federal Trade Commission, injunctions to be issued by United States District Courts and criminal actions in those courts.

The other methods used by NRA in obtaining compliance with the provisions of the codes and agreements, were not directly provided for in the Act unless they be said to have fallen within the authority delagated to the President to make rules and regulations. Therefore, with the exception of the rather distant analogy of the enforcement methods used by the Federal Trade Commission in connection with the codes of fair competition drawn up by that body for the government of certain industries, the inforcement methods or rather compliance methods used by NRA were originated by NRA itself.

(*) Webster's New International Dictionary.

CHAPTER II

BASIS IN THE ACT

When the program for industrial regulation was halted in May 1935 by the Schechter decision, a major part of NRA's activity was being carried on under the vague heading of "Compliance". The purpose of this chapter will be to examine the National Industrial Recovery Act to discover upon what foundations this activity was based.

It will be helpful, to attempt a clarification of the meaning of the term "compliance" and to limit the scope of the inquiry at the outset.

Within NRA, at least, "compliance" was considered to be a broader term than "enforcement". The reason was fairly obvious. When the program was launched, it was conceded that success would be largely dependent on observance of the new regulations by voluntary support rather than penal enforcement. Hence, "compliance" came to be regarded as inclusive of every factor which tended to harmonize the industrial activity of the nation with the regulations growing from the act. These factors may be briefly outlined as follows:

1. Voluntary observance, resulting from:

    a. Altruistic motives
    b. Self interest

2. Involuntary observance, resulting from the fear of:

    a. Adverse public opinion
    b. Labor troubles
    c. Loss of insignia
    d. Loss of labels
    e. Loss of government business
    f. Censure by FTC and citation thereby to federal courts
    g. Enforcement of state acts in local courts
    h. Injunction, fine, or imprisonment under the NIRA

Some of the regulations emanating from the new statute, required affirmative action by members of industry; others contemplated supervisory functions by the government without designating the person or agency to be responsible therefor; while still others specified that certain violations were to be punished by well established governmental units. In examining the act, a weather eye must be set for the three kinds of provisions, as they are all germane to this broad conception of "compliance". (*)

(*) By way of limitation, Titles II and III of the NIRA and section 9 of Title 1, dealing with petroleum, will be excluded from this consideration.

Section 1 of Title I declared the policy of Congress to be, among other things:

> "***to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups***
>
> "***to induce and maintain united action of labor and management under adequate governmental sanctions and supervision***
>
> "***to eliminate unfair competitive practices***"

Such organization, supervision, and elimination contemplated affirmative action by the government. Here we find the first basis of compliance activity in the act.

The President's power, acting through the Administrator, and later the National Industrial Recovery Board, to establish the Compliance Division; to appoint, fix duties, and compensate its personnel, was found in section 2 (a):

> "To effectuate the policy of this title, the President is hereby authorized to establish such agencies, to accept and utilize such voluntary and uncompensated services, to appoint without regard to the provisions of the civil service laws, such officers and employees, as he may find necessary, to prescribe their authorities, duties and responsibilities, and tenure, and without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers and employees so appointed."

His very broad power to delegate "any of his powers" to subordinate appointees was set forth in Section 2 (b):

> "The President may delegate any of his functions and powers under this title to such officers, agents, and employees as he may designate or appoint, and may establish an industrial planning and research agency to aid in carrying out his functions under this title."

Section 3 (a) provided the machinery for the creation of voluntary codes. The part we are interested in was added as a proviso:

> "The President may, as a condition of his approval of any such code, impose such conditions (including requirements for the making of reports and the keeping of accounts) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and may provide such exceptions to and exemptions from the provisions of such codes, as the President, in his discretion deems necessary to effectuate the policy herein declared."

Thus, in validating a code, the President could require the applicant industry to keep books and records - the better to check said industry's compliance with its code. It will develop that the reference to other conditions for the protection of "consumers, competitors, employees" and to exceptions and exemptions was the basis for much compliance activity that was to follow:

Section 3 (b) designated the provisions of any approved code as "the standards of fair competition" for the trade or industry concerned. Certain violations were to be punished by the Federal Trade Commission. Thus was provided the first of four penalties to be meted out by an existing governmental agency. The provision is properly classified under "enforcement".

> "After the President shall have approved any such code, the provisions of such code shall be the standards of fair competition for such trade or subdivision thereof. Any violation of such standards in any transaction in or affecting interstate or foreign commerce shall be deemed an unfair method of competition in commerce within the meaning of the Federal Trade Commission Act, as amended; but nothing in this title shall be construed to impair the powers of the Federal Trade Commission under such Act, as amended."

The second designation of an existing governmental agency as an enforcement unit was found in Section 3 (c), wherein the district courts of the United States were given jurisdiction to prevent and stop code violations at the instance of the Attorney General and his assistants.

Section 3 (d) provided for the imposing of a code by the President where certain factors appeared. As a matter of fact, this power was never exercised. However, the problems of compliance in connection with an imposed code would have been the same as those affecting the so-called voluntary codes approved under Section 3 (a).

Section 3 (e) is interesting from our point of view because it is one of the very few places in the entire act where the word "complied" is to be found. Briefly, it empowered the President to limit imports where they endangered the "maintenance" of any code and any group which had "complied" with its code could move him to take such action.

Section 3 (f) fixed a penalty of $ 500 a day for a code violation in or affecting interstate commerce. As the offense was made a misdemeanor, it was handled by the regular law enforcing agencies of the Federal government. This is the third instance where the responsibility of enforcing a code was placed on an existing agency.

The agreements with or between trade groups, as provided for in Section 4 (a) were subject to the same conditions as a voluntary code under Section 3 (a). It stands to reason that such agreements were not made to be broken. But compliance with them had to be maintained through other means than enforcement because violations of the agreements were not violations of law, as had been provided in the case of codes. The

most effective penalty for these violations was worked out on the theory of liquidated damages, that is to say, parties to the agreement bound themselves to pay a stated amount if they broke the agreement after entering into it.

Section 4 (b) gave the President the power to license business enterprises to make a code effective. His regulations were to be final and a severe penalty was specified for carrying on a business subject to license without having first procured one. There was ample foundation in this subsection for effective compliance activity, but fortunately or unfortunately, it expired on June 16, 1934 without having been exercised.

Section 5 exempted actions in compliance with a code from the requirements of the anti-trust laws and provided further that no code should operate to prevent anyone from selling or trading the product of his manual labor or his farm.

Section 6 gave the President the right to ascertain pertinent facts of a trade group before approving its code. He was authorized to lay down rules by which the representative character of the applicants was to be established and to have the Federal Trade commission make an investigation where such information was not readily forthcoming.

Section 7 (a) contained the well known "collective bargaining" clause. Compliance with its provision was a jumbled up affair when the act went into operation because no one was saddled with the responsibility of enforcing it. A group within NRA assumed this responsibility but soon found it necessary to turn the problem over to a special "National Labor Board". The National Labor Relations Board was an outgrowth of the organization and was set up entirely independent of NRA. The collective bargaining clauses, of course, fell with the codes in May, but the technique that had been developed in the pioneering stages, was taken over by the National Labor Relations Board when it assumed the responsibility of guiding the destinies of the new Wagner Labor Act, which is substantially the same as old Section 7 (a) of the NIRA.

Section 7 (b) directed the President to encourage employers and employees to enter into voluntary agreements for collective bargaining and provided that when he had approved such agreements, they should have the same effect as a code approved under Section 3 (a).

Section 7 (c) authorized the President to "prescribe" a limited code of labor provisions where his "investigation" had revealed that such a code would effectuate the policy of the act. The efforts for compliance as well as the penalties for violations of such limited labor codes were to be the same as those provided for regular codes approved under Section 3 (a) of the act.

Section 7 (d) defined "person", "interstate", and "foreign" commerce for purposes of jurisdiction.

Section 8 attempted to clarify the apparent overlap of the NIRA and the AAA. It provided that the President could delegate any of his powers

under the former to the Secretary of Agriculture, where a code for an agricultural commodity was concerned.

Section 9 concerned petroleum. As it was administered by an independent agency, it will not be considered here.

Section 10 is probably the most important of all as far as compliance is concerned.

Subsection (a) authorized the President to prescribe such rules and regulations as might be necessary to carry out the purposes of the title. He was also empowered to set fees for licenses and for filing codes and agreements. As the licensing power was never exercised, no fees were ever collected on this score, and the policy of collecting a fee for filing a code was never adopted. The punishment for violating any such presidential rule or regulation was a fine not to exceed $500 or imprisonment to exceed six months, or both. As a criminal offense against the federal government was concerned here, violations were handled in the usual way by the federal courts. This is the fourth and final instance of enforcement by an existing federal agency.

Subsection (b) made it mandatory that the following provision be included in every agreement, code or license which was approved, prescribed, or issued under this title.

> "The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under this title."

Many administrative actions concerning compliance were founded on this provision.

Our examination of the statute reveals four instances where enforcement powers were delegated to existing agencies.. They are:

(1) Code violations in interstate commerce were also declared to be unfair methods of competition in commerce, within the meaning of the Federal Trade Commission Act, and subject to the usual cease and desist orders. In practice, however, the Federal Trade Commission did not move against a violator unless NRA requested such action.

(2) The Attorney General was charged with the duty of directing the District Attorneys to prevent and restrain code violations in the District Courts of the United States.

(3) Code violations in transactions in or affecting interstate commerce were made misdemeanors, subject to a fine of $500. As such, it was contemplated they would be routed through the law enforcement channels of the government which handle other federal misdemeanors.

(4) Violations of presidential rules and regulations "shall be punishable" by fine of not more than $500, or imprisonment for not longer than six months or both. These penalties were also to be handled by the law enforcing officers of the government in the federal criminal courts.

The basis for compliance activities other than enforcement is harder and more elusive to track down. We find many direct and indirect references to them without a direct designation of their administration to anyone. Their administration had to be executed by someone, however, and as a result we find such units as the Compliance Division; the National Industrial Appeals Board; the Compliance Councils, and the regional and state organizations. If these units are traced back to their legal origins through administrative and executive orders, one invariably comes out at Section 2 which gave the President the power to delegate any of his functions to such agencies as he found it necessary to establish to effectuate the policy of the act.

The actions of those units, that is to say, orders withdrawing insignia, labels, and government contracts; orders approving amendments, exemptions, interpretations, code authorities, and assessments can only be traced to Section 10, wherein the President was authorized to prescribe such rules and regulations as were necessary to carry out the purposes of the title.

Excluding the enforcement activities which have been treated above, we are led to the inescapable conclusion that the main basis for compliance appears in Sections 2 and 10 of the act.

CHAPTER III

PROBLEMS OF COMPLIANCE

A. GENERAL SCOPE AND NATURE OF COMPLIANCE TASK

1. METHOD OF EXAMINATION

The general scope and nature of the compliance task is best realized after brief consideration, first of the field of activity which the National Industrial Recovery Act sought to bring within its scope, second of the types of enforcement difficulties inherent in the code sustems as a whole rather than in the individual regulatory provisions of the Codes.

Before considering these questions, it must be stressed that a vast number of interrelated and interlocking psychological and social conditions should rightly be considered in the course of an attempt to evaluate the general scope and nature of any compliance task.

It is not possible within this report to deal with all of the motivating causes which made for or against compliance. Suffice it to state that a thorough understanding of compliance problems necessitates an intimate knowledge of behavioristic principles, since compliance is a state resulting from human action.

2. SPECIAL FACTORS AFFECTING NRA COMPLIANCE

In the special compliance field of NRA, preliminary attention must be addressed to two fundamental phases of the Act - policy and enforcement powers or lack of enforcement powers, as both effected the extent of NRA activity.

(a) Enforcement Powers.

The question of the extent of the enforcement powers accorded by the Act is a subject to be more fully discussed under the heading of 'Powers Limitations'. At this point it is only necessary to call attention to the fact that the violation of a Code provision in a transaction in or affecting interstate commerce was declared a misdemeanor and that the district courts were empowered to enjoin code violations (by suppostion but not so-stated expressly this power was limited to transactions in or affecting interstate commerce) -- also under certain conditions the President was given power to license businesses in or affecting interstate commerce. Furthermore, Section 10 (a) of the Act authorized the President to prescribe rules and regulations necessary to effectuate the purpose of Title I of the Act, the violation of such being punishable also as misdemeanors.

The Act contained no provisions relating to compliance machinery or to auxiliary enforcement aids -- such as the subpoena power.

It should be remembered in the attempt to measure the legal worth of the enforcement powers accorded NRA that the Federal government possesses only restricted enumerated powers. Therefore, it may be said with reference to a particular transaction that the constitutional validity or final test of enforceability depended first on the validity of the formation of the Code governing the operation to be controlled, secondly on how far such Code could be said to apply within constitutional limits to the particular transaction at hand, and thirdly, whether the provisions were or were not in themselves arbitrary. On May 27, 1935, the first two questions were answered by the highest court in the land, when it decided first, that the Codes were not validly formulated as, among other reasons, the policy declarations in Title I, Section I were so sweeping in nature as to delegate legislative discretion prohibited save to Congress and second, that the application of the regulatory provisions of Codes even validly formulated was necessarily restricted to transactions in or directly affecting interstate commerce. With this decision compliance came to an end and with it collapsed the theory held by the government that since virtually all transactions came within the commerce clause of the Constitution the applicatory scope of Codes otherwise valed was unlimited.

The decision is of interest for the purposes of this report only from the viewpoint of its anticipated effect on compliance --- that is, of its predictability by the public and by the legal profession. Thus measured, it clearly appears that the task of compliance became increasingly difficult with the lapse of time. Litigation figures do not properly reflect the correct import of the decisions since the effect on litigation of newspaper publicity and of other imponderable factors of growing importance with the passage of time require equal if not primary consideration. With the likelihood of a Supreme Court pronouncment becoming stronger the feeling of resistance to compliance grew, since it was felt that a possible or probable adverse opinion would soon result, that the uncertainty was about to be resolved, that refusal to comply would not entail a long and costly legal battle.

Yet it would be an error to suppose that compliance was powerless to effectuate its desired ends because of insufficient legal sanction. Few cases were brought to the District or State Courts in the earlier stages of compliance activities. (It will be seen later that the result of this policy was disastrous particularly in its influence on public opinion. Very few were appealed to higher courts and not until the end came was the position of the highest court clearly revealed.

Uncertainty as to the final outcome of governmental litigation and the expense attendant on court proceedings were two of the most potent weapons at the disposal of compliance. An attempt will be made later to trace the somewhat erratic course of public opinion in relation to NRA enforcement activities and to follow some of the results of non-compliance on compliance.

(b) Policy

Turning to the question of policy, the extreme paucity of standardized and particularized legislative, as distinguished from administrative policy is apparent after perusual of the policy declaration contained in Section 1, Title I of the Act. This reads in part that it is the "policy of Congress to remove obstruction from the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilitization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources."

It would seem at first glance, at least, that rehabilitation or recovery (and not necessarily reform) is the avowed aim of the Act. Of course, the sanctions imposed to effectuate recovery might at the same time accomplish reform. It would appear that the relief of unemployment and the improvement of labor standards are conceived of primarily as a means of rehabilitating industry since the phrase "and otherwise to rehabilitate industry and to conserve natural resources" is used directly in connection with these two more specific of the purposes which the Act denotes as expressive of its policy. Closer observations may indicate that this surmise is not entirely correct as the Act was entitled "an Act to encourage National Industrial Recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes." It may be stated, however, that the paramount motive was the realization of industrial recovery, and that the accomplishment of this realization was to be reached through compliance with regulations which are commonly considered to be of a reformatory nature.

How far reform legislation can or should be divorced from legislation destined to succor the economic ills of capitalism , whether the two are or are not coincidentally parallel, and if not, whether the goal of reform, as such, should have been preferred to that of recovery are ulterior questions which lie apart from the subject under consideration.

The question of whether regulations of the National Recovery Administration conform to policies expressed in the Act is also without the scope of this report.

The legislative policy expressed was worth little or nothing to compliance as a necessary guide or standard. Because it was so vague, it became imperative for administrative or semi-legislative policy (it was precisely to this aspect of the system that the Supreme Court objected) to redetermine the width in scope and the extent of the regulatory measures enacted under the Statute. Being delegated the power to formulate regulations or legislative policies of almost unlimited variety, administrative policy decided (with possibly one exception) that the regulatory measures to be made effective should operate to include and affect in detail virtually the whole of American industry and trade as distinguished from agriculture.

3. SCOPE OF APPLICATION OF NRA REGULATORY MEASURES.

Ranking in population after China, India and the Soviet Union and in size fifth among nations, with over 120,000,000 persons scattered throughout its territory, 70 per cent of whom live to the east of the Mississippi, the United States enjoys a value, production quantity and variety of industry not exceeded by any of the world's nations.

The most cursory examination of the size and extent of industrial life in this country must give the imagination pause, particularly when considered in relation to the regulation of industrial activities undertaken on any expanded scale.

In its compilation of manufacturing industries, it has been estimated by the Bureau of Census that in June 1933, there were in such industries 6,055,736 wage earners, 802,472 salaried employees, 141,766 est ablishments; that wages paid amounted to $5,261,576,029. and the salaries paid totaled $1,356,532,770.; that cost of materials, containers and purchased electric energy equaled $16,748,438,977. and value of products $31,358,840,392.; further that the value added by manufacture was represented by the figure $14,610,401,415.(*

(*) While noting these figures it is to be remembered that the Bureau of the Census did not classify industries in the same manner as did NRA, that establishments reporting the value of their products as less than $5000, were not included in the tabulation, that salaried corporation and central administrative officers are omitted in the survey, that duplication in the figures covering cost of materials and products is inevitable since the product in one industry may constitute the materials of another, that certain industries, including coffee roasting, spice grinding and nut processing are not presented in the final list.

These figures, indicative of industrial manufacturing, fail to reveal the extent of the service industries and the distributing trades which the National Recovery Administration also sought to regulate.

Viewed from the standpoint of geographical area, the Act was effective not only in the United States proper but also in the territories of Alaska and Hawaii as well as in Porto Rico. The language of the Act was broad enough to include other insular possessions of the United States with the exception of the Phillippine Islands although regulations were not proposed for the former. In terrirorial mileage therefore NRA enactments embraced over three millions of square miles.

Such an extended field of activity serves to point the formidable nature of the task from the social viewpoint. The foreign element in the larger cities, negro labor in the South, the Oriental population in Hawaii, organized and unorganized workers, handicapped and debilitated workers, endless varieties of custom, tradition and conflicting interests resistive of innovation and collective social action, individual notions as to the fairness and desirability in general or under special circumstances of certain practices now regulated for the first time, the diversity of conditions influencing the supply and demand of goods or labor, unite with a variant ebb and flow to create of compliance administration a problem of ever shifting and interlocking relative values.

4. DIFFICULTIES INHERENT IN CORRELATED COMPLIANCE

(a) Labor Provisions and Trade Provisions

The great mass of NRA labor regulations presented a comparatively more homogenous, closely knit and non-varying structure than did the body of trade practices. Many of the latter were entirely new and foreign to the law and to the public, and due to inherent complexities of scope and standard, they exhibited as a whole a hetrogeneous structure which could only from a compliance standpoint, be compared unfavorably with the associated labor standards. Furthermore, the casual observer who compares the two types of NRA regulation will perceive that compliance must encounter more serious difficulties of proof when dealing with trade practices than when confronting labor standards.

The average business man recognizes that the regulation of labor conditions and the supervision of the rights of other human beings are fit subjects for governmental enterprise. But such requirements as selling at fixed prices, open price filing, registration with code authorities, payments of assessments, sales above cost, restricted rebates and discounts, totally apart from the question of economic desirability, are widely, although perhaps not rightly, considered in varying degrees to be infringements of personal rights and property rights. Again, when scrutinizing certain trade practices of major significance, such as those dealing with price, it is conceded at once that the consumer or buyer reaps what appears to be a direct or immediate advantage if he is successful in procuring the prohibited sale below cost or below recorded price list.

Various degraded labor conditions may result also in quotation of lower prices but the connection is not so visible to the customer.

Although labor conditions are capable of affecting the margin of available profit and hence sales prices, such an effect is not so apparent to the buyer as is the proximate action of the seller, who of his own direct initiative, decides to sell below cost, below recorded prices or below fixed prices. The buyer, who thus beholds such potential immediate advantage accruing to himself, is only too often, in his desire to solicit low prices, placed in the position of accomplice to the seller. On the other hand, established labor standards not only operate to establish fair standards of competition among members of industry, but accord also precious personal benefits to an enormous class and fail to subtract directly from the efforts of the buyer to acquire goods at reduced levels.

Further, sales below an established price limit do not enlist that degree of sympathy towards those of the industry suffering therefrom as is manifested towards employees regarded as exploited and victimized. Again, it may be said that it is easier to obtain evidence of most labor violations than of most types of trade practice violations. It is apparent that the employee enjoys closer personal contact with his employer than does one member of the industry with another and thus is better enabled to present clearer testimony of violations of labor standards than is a member of the industry to offer evidence against another of trade practice violation.

When considering trade practice regulations as a group by itself, division is to be effected between those:

1. Which prohibit practices to be described as evil in themselves, or as malum in se, the prohibition of which may have been approved by judicial sanction. (These are the more easily enforceable.

2. Which are made unlawful only because prohibited by the codes and which introduce the new legal concepts for the first time.

The degree of enforceability of the latter (such as provisions dealing with trade-ins, accounting methods, capacity control schemes, cash discounts, customer classifications) although in general low, varies with the type under consideration. So for example, price fixing provisions are not as easily put into execution as those dealing with open price schedules, largely because of the difficulty of setting adequate prices to meet the circumstances and because of the attendant difficulty of prohibiting sales below the established price which may, nevertheless, yield a profit to the individual seller. Again, provisions forbidding secret rebates or discounts are probable more difficult to enforce than open price filing requirements as violations of the former rules do not lend themselves to facile detection.

Once more it must be repeated that the practicability of securing passage of labor legislation without trade practice legislation is not under consideration, as is not the economic desirability of either. Of course it is true that indirectly the economically undesirable gradually becomes increasingly difficult to enforce. It should also be pointed out that the inclusion of trade practice provisions may strongly assist labor compliance activities granted that the former are themselves enforceable. NRA authorities in Louisiana in communicating their views on this matter state:

> "The most difficult provisions to enforce, naturally are those trade practice provisions which had to do with price fixing and cost determination. We do not believe, taking the situation by and large, that price fixing as such is practical and price cutting below the determined cost should be regidly and strictly enforced and adhered to in the future development and changes of codes. Very few, if any, of the codes give a simple, practical method of cost determination which can be followed and adopted by the smallest of industries, operated by the more ignorant type of employers. When such method of cost determination is developed and made a part of the codes, we believe prices below that cost, or below filed prices, can and should be punished or prevented.
>
> We have noticed considerable agitation in newspapers of recent date, to the effect that trade practice provisions of this sort are to be eliminated. We are frank to say that if such should be the case, we believe there would result wholesale violations of the labor provisions, which would require a police force of prohibition days to detect. It is our belief that industry , insofar as it is made up of smaller local links, as contrasted with the very large national concerns, will not take kindly to a code system which says to them 'You shall pay your labor so much and work them not more than so many hours, or suffer criminal proceedings for your violations' when, at the same time, the government says to those members of industries, 'We will give you no protection whatsoever on cut-throat price cutting or other unfair business methods of your competitors.' To our minds, the adoption of only labor provisions is to place purely local concerns at the absolute mercy of those strongly capitalized or financed concerns, which deal nationally, or at least state wide, in that these larger and better financed concerns can operate at a loss, so far as cost is concerned, indefinitely and, at the same time, live up to the wage and hour provisions of the codes; the poorer finacned companies, however, will be utterly unable to meet such competition and pay code wages or work code hours.

They will be left, therefore, with the recourse of going out of business or taking a chance on being prosecuted in the criminal courts of the United States. Nor is it any answer to my mind that those trade practice provisions will be turned over to the members of the industry themselves, on the theory that they are rich enough to supply the money to secure code enforcement. Litigation is expensive and, if the expense of such litigation is thrown on small industries, or the weaker financed ones, such provisions will afford no relief whatsoever."

In connection with the statement above quoted, it should be borne in mind that cancellation or abstraction of trade practice would have a more serious effect on labor standards than if the former had never been enacted -- firstly, because those apparently benefitting by the provisions would be inclined to resent their abrogation particularly if the labor standards were at the same time left intact.

Statements such as these, if accepted, throw no light on the enforceability of sale at cost and similar regulations but bear rather on the question of separate enforceability of the labor provisos. Excluding legal considerations, a variety of circumstances, among them, time of enactment and manner of enactment (for example, necessity for inclusion of certain trade practices because of bargaining procedure adopted in code formulation) may obscure the fundemental question of whether the labor standards themselves could or could not be properly maintained, with or without the addition of trade practices.

Conceding the existence of these problems, there is, nevertheless, reason to believe successful compliance with appropriate labor standards could probably be assured, even though such standards remain unaccompanied by trade practice rules.

As an indication of the potentialities of such a program, when completed and in the shape of regulatory enactment, attention is directed to the President's Reemployment Agreement entered into pursuant to the terms of Section 4 (a) of the National Recovery Act. It is submitted that both experience and logic show the Agreement when compared to the Codes constituted a superior compliance weapon. This is true, because with certain exceptions it was comparatively simple and uncomplicated in scope and expression and did not introduce the large mass of novel material later introduced by the NRA regulations; secondly, because it enjoyed the immense advantage of initial public support; thirdly, because it was probable legally enforceable as was not the case with the codes.

It has been pointed out that public support accorded much sanction to the Agreement. It does not lie within the scope of this report to outline the history of either the Reemployment Drive or the Reemployment Agreement. In terms of public opinion, the two succeeded because of the intense desire, due to economic stress, of the people for a

change from the governmental policy of laissez faire, because it was felt that the employment situation was rapidly becoming a menace and that positive curative measures must be undertaken, because of the President's immense popularity, because of the feeling that mass measures should be adopted to combat in a mass manner a national problem. Overwhelming enthusiasm of public sentiment, combined with fear of popular criticism and, sincerity of belief to persuade 2,317,838 establishments (*) to subject themselves by signature to the obligations entailed by the President's Reemployment Agreement. These establishments employing over fourteen million, seven hundred thousand employees agreed, therefore, to forswear child labor, put into effect minimum wages and maximum hours and in the majority of cases, to keep wages constant notwithstanding the reduction of hours. Approaching the question of the enforceability of the Agreement, it must be remembered that the Reemployment Agreement was not the ultimate end of the mapped program. The Agreement itself constituted a stop gap pending the time that a code for the particular industry should be approved. Further, approval of submission of a Code by the Government operated to allow the industry to conform to the provisions of the President's Re-employment Agreement as modified by the provisions submitted and approved. Many of these modifications indicate a necessary concession to the principle of non-radical departure from established usage.

As already stated, approval of the Code as distinguished from approval of submission of the Code terminated the contractual agreement. The Agreement itself was to expire on December 31, 1933. At that time, by executive order, continued display of the Blue Eagle insignia was proclaimed to indicate acceptance of the offer to extend the Agreement for a renewed period.

The statement has already been made that the trade practice provisions of NRA proved more difficult to enforce than did they labor provisions. It was intimated that one of the advantages of the President's Reemployment Agreement, from the compliance standpoint, was the fact that it dealt in the main with generalized labor standards. With the exception of the two paragraphs dealing respectively with anti-profiteering and cooperation (also with selling price adjustments in connection with contracts entered into prior to the signature of the Agreement), the Agreement was restricted to the establishment of labor standards as distinguished from trade practice standards. Eliminating the provisions outlawing child labor and requiring equitable readjustment, the labor standards recognized only two categories of workers by type of work performed. Exceptions to the standards, otherwise applicatory, only affected the hours in certain small establishments, certain professional occupations, managers and executives receiving stated wages, emergency maintenance and repair

(*) These figures indicate the number of signatories of the Reemployment Agreement. They do not properly reflect the number of establishments bound by the agreement, since a head establishment might or might not sign for its branches.

workers and special process workers.

Such trade practice provisions as were embodied in paragraphs 9 and 10 may be virtually ignored as they were so vague as to be non-administrable. Paragraph 9 reads:

> "Not to increase the price of any merchandise sold after the date hereof over the price of July 1, 1933, by more than is made necessary by actual increases in production, replacement, or invoice costs of merchandise or by taxes or other costs resulting from the action taken pursuant to the Agricultural Adjustment Act, since July 1, 1933, and in setting such price increases, to give full weight to probable increases in sales volume and to refrain from taking profiteering advantages of the consuming public."

Paragraph 10 reads:

> "To support and patronize establishments which also have signed this Agreement."

These paragraphs typify to an extreme degree the enforcement difficulties presented by many other NRA trade practice regulations as compared to labor regulations. Paragraph 9 reveals its own limitations. With regard to paragraph 10, the proposition may be advanced that an obligation which depends on the wishes, calculations and interpretations of the individual, without clarification by standard, is no obligation. In the law of contracts a promise which depends on the wish or caprice of the promisor is illusory and cannot serve even as consideration - let alone as an enforceable promise. It may be urged that the force of moral suasion or of public opinion through the removal of the Blue Eagle from establishments held to have violated the President's Reemployment Agreement was demonstrated in the earlier days of the program to be a most powerful means of securing compliance with the boycott policy "deal only with others under the Blue Eagle" -- i.e., the official version of the obligation imposed by paragraph 10 of the Agreement. Questionable in the extreme, however, (as shown later) is the compliance worth of a regulation which depends entirely for enforcement on fortuitous vocation of public opinion, a force, which tremendously powerful as it may be, is not satisfactory implement to use in the application of a law or enforcement of a legal obligation, both of which necessitate a high precision of standards.

From the standpoint of enforceability, and, enforceability must be understood to mean governmental enforceability, paragraphs 9 and 10 were not enforceable because of impracticality of factual determination and impossibility of applying reasonably definite standards, although removal of insignia and the attendant militant recruiting of public opinion to sustain a strained and unsupportable version of paragraph 10, (which version was necessarily promulgated in order to establish some sort of standard otherwise lacking) was a temporarily effective and dramatic method of calling for public support of the pledge as so interpreted.

There is reason to suppose that this provision would not have been enforceable had it meant "Deal only with others 'under the Blue Eagle' ", which was the official explanation made of the pledge. In its actual shape it presented such a complete lack of standard as to be actually worthless for all purposes except moral suasion, a fact which those who drafted the provision undoubtedly realized.

It was undoubtedly the concept of NRA to obtain compliance even with the Reemployment Agreement's more enforceable provisions through the sole sanction of public opinion. As will be shown under another heading, there are many reasons for believing that this was a major error of policy. (*)

(b) Labor Provisions

Turning to the question of inherent enforceability of the more than 20,000 trade practice and labor regulations introduced by the Codes, the variety and complexity of the same immediately strike the attention as inherent enforceability cannot but be affected by diffusing compliance activities along a greater or lesser number of directional lines.

At first glance it would appear that the Code labor standards were comparatively simple and standardized as the bulk of them deal with minimum wages, wages above the minimum and maximum hours. Closer examination, however, reveals the fundamental structural intricacy of these standards.

With respect to wages it may be said -
In the words of the Brookings Report:

"There is complexity, lack of coordination, and conflict growing out of plural minima, some so-called minimum rates that are in no accepted sense of the term minimum wages, several types of divergently stated subminimal rates, astonishing spreads of the minimal rates within groups of relates industries, varying structures in competing industries --- and all these in a multiplicity of detail and endless variety of combination."

(*) The information furnished in the remainder of this section has been obtained largely from the reports of Research and Planning Division of NRA and from the Brookings Institution Reports on NRA.

Approximately one-half of the codes provide minimum wage differentials but four-fifths of all employees are subject to these same codes.

Variety of combination is evidenced by such a wide disparity as 12½¢ an hour for workers under the Code for Needle Work in Porto Rico, 14¢ an hour for certain southern workers under the Laundry Code (with tolerances on this amount), 70¢ an hour and 60¢ an hour respectively for unskilled workers operating under the Wrecking and Salvage and Household Storage Codes.

Variation by geographical area is very common as is variation according to the population of the town in which the work is undertaken. These two types of variation are frequently combined so that there are many gradations or steps in the minimum wage rate payable to the same class of workers. Also, superimposed, there is much variation of wage by class of work, particularly between clerical and production workers. Furthermore, there are many exceptions to the categories and sub-categories established. A great number of different occupations are exempted under the several codes. Semi-standardized are the exceptions for learners and apprentices, the old and the handicapped, office boys, juniors, messengers, but even here the degree of standardization is slight and the code wage provisions themselves, oscillate between number limitations, and period of learning. There are numerous time differentials which refer the minimum wage to the wages prevailing on an antecedent base date with the further provisions that, in no event, is less to be paid than a specified rate.

It, therefore, appears that there are minima possessing differentials as well as widely differentiated minima. (*)

Other common wage clauses of a special nature include rules that the minimum rate must be paid irrespective of method of payment, that more stringent laws hold, that employees shall not be reclassified or jobs be reclassified to evade code provisions, that there shall be no wage differential on the same type of work, that wage payments must be made in certain specified ways or at certain designated times, that home work is to be regulated or prohibited. From the standpoint of enforceability some are easy to maintain, others, such as those dealing with reclassifications and with regulation rather than prohibition of home work present difficult administrative problems.

Concerning the question of wages above the minimum, the Brookings Institution in its report on NRA writes, -- "The variety is so great and the minor shadings so subtle and at times so cryptic, as to almost defy classification and generalized description." Detailed wage schedules appear in a few codes such as the Graphic Arts, Textile

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(*) Several detailed studies have been completed by the former Research and Planning Division of NRA which present in an analytical manner statistical data showing such figures as average wage rates by Industrial category as well as differentials of the various groups and weighted averages considered in relation to the number of codes and to the number of employees affected. In addition numerous charts have been drawn which picture graphically the complex nature of these provisions.

Apparel and Amusement Codes. The Construction Code provided for later regional collective bargaining effecting the higher wage scales. Other codes maintain the weekly wage scale either along with additional safeguards such as differential continuance, or without such safeguards; partially maintain the former weekly earnings, maintain differentials either with the minimum or with the wages above the minimum; maintain only equitable or fair differentials; prescribe equitable adjustments upwards in accordance with paragraph 7 of the Reemployment Agreement and its interpretations; prescribe equitable adjustment together with no reduction of hourly rates; indicate simply that it is the policy of the industry to adjust or that adjustment be effected to the extent practical; provide for reports concerning action taken with relation to the wages above the minimum; maintain entire silence on the subject of wages above the minimum.

The whole structure of the NRA hour provisions is closely related to the wage structure and even more strictly so in terms of compliance policy. A great many codes contain provisions for overtime on condition upon payment of overtime wages. Further, unauthorized overtime treated by the NRA Compliance Division as a code violation which necessitated restitution for hours worked at some rate in excess of the worker's hourly rate. All the complexities of the wage scale, therefore, present themselves with redoubled force in the administration of the maximum hour clauses, to which there were far more occupational exceptions both partial and complete than for the minimum wage clauses.

Between the 27 hour work week of the Cast Iron Soil Pipe Code and the unlimited week of the Fur Trapping Contractors Code, are placed the bulk of codes with a commonly expressed 40 hour week limitation. In nearly all cases, however, there is a displacement of uniformity by permitting averaging of the hourly provisions for periods ranging from 2 weeks to 52 weeks, (*) by providing for unlimited hours or limited overtime with a proviso in virtually all such cases that overtime payment at various rates be made.

In numerous instances the number of hours worked per day is the object of limitation. Exception from the hour limitations is found in the great majority of codes for peak and seasonal periods, emergency repair and maintenance, or other emergency periods. These excepted periods may apply to all employees or to certain groups such as maintenance groups, and repair and inventory groups. Again, certain employees are wholly excepted from the maximum hour restrictions.

Special labor clauses relating to hour provisions occurring more than 18 times, are:

(*) The averaging provisions are often difficult to enforce because of the length of time which must elapse before the existence of the violation can be determined.

State laws to be complied with.....547
Excess hours to be reported.....152
Employers subject to labor provisions of code.... 93
Overtime for holidays..... 89
Lunch interval provisions..... 69
Special report on hours..... 69
Hours of work consecutive..... 66
Number of shifts limited..... 47
Waiting time counts..... 39
Geographic or population differential in hours... 39
Lost-time clause..... 27
Maximum sharing of work..... 24
Stretch - out forbidden..... 21
Night work for women forbidden..... 20
Regulating start and finish..... 20
Maximum continuity of employment..... 18

Judicial and interpretative problems aside, a cursory evaluation of the labor provisions of the codes reflects a multiple network of complexities and exceptions which seriously prejudiced compliance. Later an attempt will be made to show the nature of the influence thus brought to bear on the labor compliance machinery. It is questionable whether these complexities were necessary to prevent to radical a departure from established custom, particularly, with respect to similar occupational tasks. It is doubtful if the difficulties encountered with provisions which may have split off too abruptly from established custom or from existing economic conditions, such as the 40¢ minimum for unskilled construction labor in those southern areas which had been accustomed to a rate of 15¢ or 20¢ an hour for similar work or such as certain ill-drawn sectional zone lines which passed through competing areas, occasioned the compliance problems that the mass of complexities caused. As already pointed out, the balance between standardization and simplicity on the one side and the proportionate revision of economic conditions on the other could have been better assured.

(c) Trade Practice Provisions

A distinction has already been pointed out relative to the comparative enforceability of trade practice provisions and labor provisions. The very width of scope and variety of the trade practice rules of NRA was a negative compliance factor and is one of the important elements making for comparatively greater potential enforceability of the more compact labor provisions, which complicated as they were, did not extend over as an immense range as did the trade practice provisions. Estimates have been made that, without being broken down into various types and classes, the number of trade practices regulated amounts to at least 100. (*)

(*) The classification of the trade practice provisions of the Research and Planning Division appear in Appendix No. 2

Lack of space prevents citation of the varying individual regulations, literally myriad in different type.

Even provisions, at first glance essentially the same, reveal textual varieties of language binding, which are of the utmost significance to compliance. (*)

Examples similar to that appearing in the Appendix might be multiplied ad nauseam. Enough, however, has been said to indicate that in terms of compliance NRA trade practice regulations, considered as a whole, (and the same may be said in lesser degree as to labor regulations) even without the staggering jurisdictional and applicatory problems presented, offered tremendous difficulties because of complexity and variation of ill-defined standard, because of widely unrelated provisions of a too novel character and because of intricate questions of factual proof occasioned by the legislation.

(*) As an example, Appendix 1a shows the variations in the provisions dealing with false marking or branding.

CHAPTER III

PROBLEMS OF COMPLIANCE

B. SPECIAL SCOPE AND NATURE OF COMPLIANCE TASK

As already stated, the task of compliance consists in the securing of conformity with certain regulatory standards. To a large degree the magnitude of the task depends on the complexity and extent of the field of operation covered by such standards, as also, on the measure of departure from established usage effected by such regulations. Certain special "applicatory" difficulties attendant on the enforcement of standards are, in addition, of peculiar interest to compliance. All of these special applicatory problems relate to clarification of meaning or extent of application of the standards and not to problems raised in the attempt to enforce the standards after the applicatory scope thereof to the particular facts has been determined. In other words, these problems relate to the choice of applicable standards and/or the meanings of such standards.

Among the most important of such special applicatory difficulties may be listed problems of : (a) classification, (b) ambiguity of regulatory language, (c) plural applicability of irreconcilable standards. For purposes of convenience, as will be seen, certain of these problems may be segregated because they deal in the main with difficulties created by the application of regulatory standards to general categories of situations or even to all situations, rather than with those created by the application of standards to special factual situations of relatively infrequent occurrence.

The question may arise as to why regulations which stand in need of clarification or interpretation should present a particular problem to compliance, since it is not the funcion of compliance agencies either to seek to apply such standards before administrative clarification, or to furnish solutions to the problems they raise, but rather to apply the solutions when furnished. Assuming the highest degree of effectiveness and perfection of procedure to have existed in the method used to arrive at these solutions (an assumption unhappily far from true in the case of N.R.A.) the fact remains that a basic uncertainty as to applicability underlying any item of legislation is impossible to overcome. Reasonable certainty of the standard itself is a prerequisite to establishing conformity with the standard. If the uncertainty can be cleared only through a laborious procedure of issuing numberless interpretations and other classificatory pronouncements the undermining influence of non-compliance on compliance as well as of contempt for the law must ensue. The orderly processes of compliance are halted, for until the interpretation or pronouncement is issued the regulation cannot be applied. Yet, presumably it must mean something even before the interpretation is offered.

An administrative interpretation can never carry the same respect as the standard itself, for an interpretation presupposes reasonable

doubt and the interpretation does not remove completely the reasonableness of other construction. A regulation clarified by means of administrative interpretation is, therefore, more difficult to enforce than one expressing the same purport but which is clear in meaning to all reasonable persons.

It is not meant to imply that necessity for interpretation or administrative ruling should be eliminated in all instances. As will be pointed out, situations can and do arise in which even the clearest language must be construed. Language, however, which calls for construction when the more usual or common group situations are applied to it, is undesirable.

The actual difficulty encountered by the NRA field agencies of compliance, not only in securing proper interpretations and rulings with reasonable speed, but in securing any sort of answers at all to many questions, is considered at length in other reports. These procedural difficulties served to aggrandize immeasurably the nature of the difficulty.

The applicatory problems themselves, (presented by NRA regulations) even before being answered by rulings are of unusual significance as they serve to illustrate in exaggerated form the usual classificatory processes of compliance which are properly and inescapably part of its routine. A clear understanding of these problems is of invaluable aid to those who would study the functions of compliance. For it may be postulated that since the function of compliance is to effect conformity with standards, the first step in the fulfillment of such function after determination of pertinent facts, is the application of the governing standards thereto, in order that conduct may be brought into harmony with conduct prescribed by the standard. The application of standards is, therefore, a problem common to the compliance agencies and the agencies charged with the function of interpretation. The nature of such application should, therefore, be clearly understood by those seeking to understand the problems and functions of compliance. So, in order to apply a standard, it may be necessary, for example, to determine whether powdered onions constitute a spice, or whether three and one half percent beer is intoxicating; or whether an earring is an article of personal adornment, or whether mercury is a metal. While it may be conceded that some of these questions require interpretation because there may be reasonable doubts as to the answers, it may also be conceded that others do not, since the answer given by all reasonable persons would be the same, and therefore, the agencies of compliance may answer the question. Yet the process of applying the facts to the definition or standard remains the same in all the examples cited.

These and like questions involve a problem of classification, of fitting a standard or a statutory provision to the particular facts presented. It is to be emphasized that the application of any standard to any fact (the primary function of compliance) implies classification, but the special difficulties of classification removed from the sphere of compliance do not appear unless in relation to the particular facts presented, the accepted meaning of the standard does not of necessity

convey to all reasonable persons the same sense. (*) That the application of the standard to special factual situations may prove to be an extremely nice task must be conceded. This is true in varying degrees of all standards in some cases, no matter what the degree of clarity or precision of accepted meaning conveyed by the standard.

For the standard, embracing a centralized area closely within its purview, also extends itself out over a darker region and finally reaches a field where the area covered is so enshrouded, as it were, that the borderline which must be traced through such area in order to determine that which conforms to the standard and that which does not, is veiled in an obscurity which permits of wide latitude of choice.

The process of classification, since it connotes comparison of standard with fact is essentially inductive. It requires that the facts in question be compared with the nearest similar set of imaginary facts admittedly comprised within the standard. The degree of perceived similarity of the one to the other is usually the controlling factor of the result reached. So for example, in order to determine whether a hitherto unknown plant is a member of the rose family, its charcteristics may be compared with those of the rose or of some other member admittedly included in the family and, if the resemblance in the view of the classifying authority is sufficiently striking, the new plant may be included in the family.

A wide variation of selection may be possible even within the centralized area of accepted significance covered by the standard. In

(*) Such a distinction between the two types of classification was recognized by NRA in its differentiation between interpretations and explanations. Office Manual III, 3100 et seq. prescribes that an interpretation must be rendered "where a knowledge of surrounding circumstances of NRA policies fails to remove the necessity for decision under which reasonable men equally conversant with the circumstances and policies might differ." An explanation might be furnished by any informed person, "where knowledge of the surrounding circumstances removes the necessity for decision on which reasonable men equally conversant with the circumstances and policies might differ". The Manual further states that where there is doubt as to whether a request for the clarification of language calls for an interpretation or an explanation the doubt establishes the necessity for an interpretation. Interpretations could not be rendered by the field compliance agencies, but were to be referred for appropriate administrative action. In this connection, it should also be noted that the dividing line betweendment and interpretation follow somewhat along the same path as a meaning attributed to language which no reasonable person familiar with circumstances and policies could consider attributable thereto which is officially described to be attributable only through amendment.

this connection it may be stated that it is highly important to the successful efforts of compliance that application of the standard be facilitated by precision of accepted meaning and elimination of wide latitude of choice as to accepted significance in codes where generally occuring factual situations present themselves. So for example, it is far more difficult to apply to various factual situations such as "to the extent practicable (*), or some of the "equitable adjustment" clauses of the codes than it is to determine whether a given substance is wood, or whether a particular fabric is a textile.

The question of legality and of the effect of unexpressed intent on language otherwise clear in accepted general meaning is only indirectly germane, but it may be mentioned, in passing, that the legal worth of interpretive administrative pronouncements in this field, is questionable at best, particularly in those cases which reveal a more extreme departure from well established customary understanding of judicial precedent.

Closely related to classification itself, is the process of what may be referred to for want of a better description as the creation of sub-standards or the specialization of standards. Usually a narrowed concept of the accepted meaning of the standard is adopted in order to perfect its application in the light of assumed legislative intent or administrative policy. Here again, a zone of shadows is approached since the legal line between amendment and interpretation must be drawn.

An illustration of the principle of creation of sub-standards may be seen in the construction sometimes accorded by NRA to the expression "equitable adjustment" by which a supplemental mathematical standard was established in order to determine the limitations of the expression. Again, taken literally, the mandate "interest shall be paid" might mean, in the absence of contrary usage generally accepted, one hundredth of one percent or less. If it should be decided that, in order to fulfill the obvious purpose of the mandate, a special rate should be the basis of the requirement, a secondary standard or sub-standard, such as the legal rate of interest, the prevailing rate in similar transactions, etc. must be designed as a criterion.

As an illustration of the second type of difficulty, i.e. that arising because of lack of clarity concerning which of several basic accepted meanings the standard serves to express, there may be cited Article VI, Section 8 of the Retail Food and Grocery Code. "When any State law prescribes for any class of employee of either sex a higher minimum wage than that prescribed in this Article, no employee of such class of either sex employed within that State shall be paid less than such State law requires."

In the event that a State law prescribes a minimum for women higher than the minimum prescribed for both sexes under the Article in question of Retail Food and Grocery Code, the question would then present itself and actually did present itself, of whether such higher minimum for women under the State law was incorporated by Article VI, Section 8, as the code minimum for women, or whether such higher minimum for women was incorporated thereto not only for women but also for men. In other words, the question to be solved is whether the second "either" in the

(*) Stone, Sand and Gravel Code, Article I, Section 1 (e)

Section cited should be taken as merely repetitive of the textual significance of the first use of the word, or whether the second "either" should be interpreted in the conjunctive - disjunctive sense.

The close relationship of the problems of classification to those created by ambiguity of language, is apparent. The process of classification, as already noted implies comparison of fact with the accepted significance of a standard. Only in special cases is there difficulty encountered--cases where borderline facts must be fitted to a standard of relatively precise accepted meaning. Ambiguities usually relate to choice of one of more than one or more than one potential accepted meanings conveyed by a standard.

The plural applicability of contradictory standards constituted another type of difficulty.

The jurisdictional conflicts raised by claims of the Dress Manufacturing Code and the Cotton Garment Code over certain types of dresses, and many other similar clashes illustrate this difficulty which was technically termed "overlap". The remedy did not lie with compliance.

Within the category of plural applicability of contradictory standards, the second type relating to applicability of differing but closely interrelated operative facts was of far commoner occurrence. In most instances, this type of difficulty presented itself in cases where a single establishment conducted several varieties of enterprise, each of which were subject to separate codes. Where segregation by department or otherwise was feasible, plural Code application was possible. But where segregation was not possible or feasible, as where "swing" employees worked indiscriminately and alternately on operations governed by separate codes with differing labor provisions, application of the various NRA regulations presented many problems.

In the event of segregation not being feasible, NRA policy outlined various alternatives, such as compliance with the Code more favorable to the employee, exemptions, etc. The directions, however, were vague and unsatisfactory to the highest degree as they failed entirely to outline situations where the various types of solution should have been employed. It is submitted that segretation by field compliance agencies, of operations of the character mentioned was feasible and practical in a great many cases in which it was not attempted. Many questions on this general subject remained unanswered. For example -- no formal decision was ever rendered on the question of whether an employee working on wholesale food and grocery operations could work the 44 hours allowed by the Code governing such trade, and then work 4 extra hours as a retail food clerk since the Retail Food and Grocery Code permitted a 48 hour work week.

As to different examples of this type of problem - technically known as multiple code coverage, see Report entitled - "Problems of Administration in the Overlapping of Code Definitions of Industries and Trades, Multiple Code Coverage, Classifying Individual Members of Industries and Trades, Multiple Code Coverage, Classifying Individual Members of Industries and Trades."

Another type of difficulty perhaps oppositely included in the category

of applicatory compliance problems, was presented by the fairly commonly occurring type of regulations which set up a standard to be determined within a specified future time by some entity or body designated or which rendered the pre-determination of some fact prerequisite to the enforcement of the standard. Until such determination, the standard could not be applied and was useless. It was the sad experience of compliance that numbers of such determinations necessary to completion of the standard were never made.

So for example, the supplementary code for the California Sardine Processing Industry stated in Article III, b 2, "Subsequent to August 1, 1934, no other employee shall be permitted to work in excess of the maximum hours established for him in accordance with the provisions of Article VIII, Title C, Section 1, paragraph (e), hereof." "Article VIII, Title C, Section 1, paragraph (e), authorized the Code Executive Committee" to formulate a schedule oflabor, hour, and wage provisions to become effective August 1, 1934, for employees of members of the California Sardine Processing Industry other than office employees; and to submit same to the Administrator for his approval on or before July 1, 1934."

The labor standards of Article VIII were not enacted so that the hour as well as wage provisions of the Code remained a nullity for many months until finally the labor provisions of the basic Fishery Code were substituted therefor.

A very striking example is afforded by Article I, Section 21, Paragraph 3 of the Graphic Arts Code which reads: " Within 30 days after this code becomes effective, any rate increases under Paragraphs 1 and 2 must be further augmented, if necessary, to bring the average hourly compensation paid in each establishment up to 90 percent of the hourly rates prevailing on July 1st, 1933, in the same locality for those base classes of skilled labor named in the schedule set forth in Paragraph 1 hereof."

Article I, Section 1 (c) of the same Code in defining the expression locality states, "The term 'locality' as used herein, is defined to mean a village, town or city and its immediate surrounding local trade area as determined by the National Code Authority concerned."

The National Code Authority failed, during the life of NRA to divide country into localities, and as the prevailing wage would differ with the size of the locality considered, the important provisions of Paragraph 3 remained inoperative throughout the life of the Code. (*)

The complexity of the NRA regulations was reflected in the intricate mechanical procedure necessary to effect restitution for violation of obligations. Although such difficulties were properly the problem of compliance and could not be avoided, and although they cannot properly be termed applicatory difficulties, since the application of the standards was not in question, it often happened that these mechanical difficulties

(*) Only in a few instances was there an possibility of enforcing the Paragraph - i.e. in those cases where all concerned agreed on the boundaries of the locality.

of computation and of determination of fact combined themselves with problems of an interpretive or classificatory nature. An example of this close interweaving can be seen in certain cases which arose out of the 1935 Boot and Shoe Manufacturing Code mass compliance drive, launched in order to determine the state of compliance in that Industry. The aim of the drive was, without regard to initiation by complaint, to bring all those subject to the code into compliance with the labor provisions of the Code, and to effect proper adjustments in favor of employees prejudiced as a result of such non-compliance. The issuance of detailed procedural instructions to the field staff and the furnishing of standard forms to assist the investigators, undoubtedly facilitated the mechanical solution to the problem presented, that of determining the exact situation with respect to compliance with the Boot and Shoe Manufacturing Code. Yet, despite these valuable aids to the field workers, despite the concentration and organization of the survey, certain evidentiary and mechanical difficulties in the face of complete and satisfactory adjustment were so formidable that candor impels the unqualified statement that in most cases proper adjustments could not have been obtained.

The following examples, illustrative of the complex problems offered is prefaced by citation of governing sections of Article V, of the Boot and Shoe Manufacturing Code.

CODE OF FAIR COMPETITION

FOR THE

BOOT AND SHOE

MANUFACTURING INDUSTRY

APPROVED ON OCTOBER 5, 1933

ARTICLE V SECTION 1.

No employee, including office workers (except as hereinafter provided), shall work more than 40 hours in one week: Provided, however, That during any 8 weeks of a 6 months' period (the first period to begin on the effective date of this Code), employees may work not more than 45 hours a week. Time in excess of 8 hours per day shall be paid on the basis of time and one third. The foregoing maximum hours of labor and overtime payment, however, shall not apply to outside salesmen, watchmen, firemen, cleaners or to employees in a managerial or executive capacity who receive more than $35 per week. Said maximum hours of labor shall not apply to employees doing emergency, maintenance, and repair work, or work where restrictions of hours of workers on continuous processes would unavoidably reduce production or interrupt employment, but in any such cases, at least time and one third shall be paid for time worked in excess of 8 hours per day or 45 hours per week.

ARTICLE V SECTION 2.

No male employee shall be paid less than 37½ cents per hour or female employee less than 32½ cents per hour in any city over 250,000 population; nor male employee less than 36½ cents per hour or female employee less than 31¼ cents per hour in any city between 20,000 and 250,000 population, inclusive; nor male employee less than 35 cents per hour or female employee less than 30 cents per hour in cities or towns of less than 20,000 population; except that the minimum of 35 cents per hour for males and 30 cents per hour for females shall apply to all cities and towns, regardless of size, in the following States: Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas. There shall be no discrimination in wages by reason of sex, and where in any case women do substantially the same work, or perform substantially the same duties as men, they shall receive the same rate of wages: Provided further, Apprentices during a 6 weeks' period may be paid at a rate not less than 80 percent of the minimum rate; such apprentice class, however, shall not consist of more than 5 percent of all employees in any establishment.

ARTICLE V SECTION 4.

Unskilled employees receiving in excess of the foregoing minimum rates of pay shall not be reduced; and equitable adjustments in all pay schedules of employees receiving more than the minimum rates shall be made not later than 30 days after approval of this Code by any employers in the Industry who have not heretofore made such adjustments under the President's Reemployment Agreement.

ARTICLE V SECTION 6.

Pieceworkers shall be paid at least the minimum amount per hour prescribed in Section 2 of this Article for the time employed.

It is seen from an examination of Article V, Sections 1,2,4,and 6, that not only must the prescribed minimum rates apply to both pieceworkers and time workers for hours permissibly worked in accordance with the maximum work week clause, but also that unskilled wages exceeding the minimum are not to be reduced and that equitable adjustment in all pay schedules of employees receiving more than the minimum are to be made if such adjustments have not already been made under the President's Reemployment Agreement.

It was found in many cases, that although proper hour records had been kept for the time workers (the number of hours worked a week by hourly workers would appear immediately from an inspection of bona fide weekly salary records) records of hours worked by piece rate wage earners were not kept for a considerable period of time after the effective date of the code. So where the weekly wage earned and hours worked by piece rate workers appeared for the period subsequent to April 1934 -- (i.e. the period subsequent to the first period designated by Article V, Section 1) it was possible to calculate the average hourly rate by dividing the weekly earnings by hours worked. By relating such average hourly rate back to the weekly wages earned during the period from October 1933 to April 1934 for which period hourly records were unavailable, hours worked each week during such period by each class of piece-worker could be established with some reasonable degree of certainty.

Allowance would then have to be made for the 8 weeks tolerance permitted by Article V, Section 1, and excessive weekly hours were thus susceptible of computation. But, in order to determine whether more than 8 hours were worked during a particular day, it would be necessary to compare the average hourly rate already predetermined to the daily wage total.

Furthermore, (assuming the application of the minimum male rate of $37\frac{1}{2}$ cents per hour) it cannot be argued that the pieceworker earning $15 for a 40 hour week, is paid correctly simply because forty times $37\frac{1}{2}$ cents an hour equals $15. For Article V, Section 2, establishes an hourly and not a weekly minimum. If a pieceworker should be found to have worked five 8 hour days in the week, earning on the first day $3.15, on the second $3.05, on the third $2.65, on the fourth $3.75 and on the fifth $2.75... the total earned would be $15.35. But the amounts earned on the third and fifth day do not equal $3 (i.e. $37\frac{1}{2}$ cents taken eight times) and a difference under the code of 60 cents is owing the piece worker.

Let it further be supposed in the particular example, that the piece worker is an unskilled workman.and that the Boot and Shoe firm did not sign the President's Reemployment Agreement. In order to determine the application of Article V, Section 4, comparison of the predetermined average hourly rate during the period before the effective date of the Code with wages earned would reveal weekly periods worked by a piece worker. If a wage higher than the code minimum as earned during the earlier period because of hours worked at such time beyond the Code maximum, Section 4 would necessitate the carrying forward of the higher earnings to the Code work week, and the effectuation of an equitable adjustment on the basis of comparison. But the compensation earned by a

daily or weekly worker for the longer hours could not, under the language of the first clause of Article V, Section 4 (See Interpretation No. 20, concerning Paragraph No. 7 of the President's Reemployment Agreement),(*) be reduced and the same total would have to be paid for the Code maximum work period upon the adoption of the code -- or if a lesser code work period were used, then the amount proportionate to the amount which would have to be paid for the maximum work period. The intricacies of such calculations forcibly appear when it is realized that the code maximum work week is, under ordinary circumstances for the ordinary worker, not forty hours per week, but forty hours with an eight weeks' tolerance of forty-five hours during any eight weeks out of the particular six months period. Computations over an extended period of time would be necessary in order to resolve rightly any particular case. There are further difficulties, for, in order to determine total wages earned prior to the code, a period must be agreed upon to serve as a basis for the computation. Since the total wages are to be compared to total wages under the Code, it would seem logical to compare the code work period of six months (forty hours a week with the right to work forty-five hours for any eight weeks during a particular six months period) with a similar period before the Code. But there are questions of fluctuation of earnings and hours worked because of seasonal activities, because of variation in the type of work performed, or in the degree of skill possessed during the periods which are to be compared. Further, it may be asked whether the period immediately preceding the Code should be considered in the determination of preexisting compensation or whether the corresponding period of the prior year should control.

(*) President's Reemployment Agreement, Paragraph 7.
"Not to reduce the compensation for employment now in excess of the minimum wages hereby agreed to (notwithstanding that the hours worked in such employment may be hereby reduced) and to increase the pay for such employment by an equitable readjustment of all pay schedules.

Interpretation No. 20 (Concerning Paragraph 7).
Paragraph 7 prevents the reduction of compensation in excess of the minimum, whether it is paid by the hour, day, week, or month.

Therefore, an employee previously paid by the day, week, or month will receive as much for the shorter day, week, or month.

An employee previously paid by the hour will receive as much per hour, but as shortening his hours will reduce his actual earnings per day or week, his compensation per hour is to be increased by an equitable adjustment."

Other difficulties raised in connection with the administration of this Code are legion and yet the Code is not considered to be one of the poorer ones framed.

The above example is given merely as a sample of some of the difficulties encountered in administering compliance with the labor provisions of this Code, which of all the Codes was the only one which was enforced throughout the country in a manner which could in any way be termed standard or complete. (*)

The field covered by problems of such applicatory types as those already considered, is not easily determined. The number of interpretations, explanations, stays, exemptions and amendments issued is not a criterion of great value. Whereas interpretations were issued primarily to resolve doubts of a classification nature and to indicate through elimination of other applicable standards, the proper existing standards governing the facts under consideration, this latter function was only incidentally that of such devices as stays, exemptions and amendments. Stays and exemptions were usually employed for one motive or another to eliminate in varying degrees, standards which in the common run of cases, did not raise any difficulties because of conflicting jurisdiction with other standards. The same may be said correspondingly for the changes and modifications effected through the use of the amentatory power. A careful study of the motivating causes giving rise to stays, exemptions, and amendments would be necessary before conclusions could be drawn. That this would not be a simple matter is evident from the fact that the texts of such rulings reveals in only very rare instances the motive for the issuance thereof.

Furthermore, it is notorious that the substitution of explanations for interpretations was so tremendously frequent as to cause most persons to believe that vastly more interpretations were issued in the guise of explanations than through the procedure reserved for interpretation. No

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(*) The writer does not suggest in any way that the equitable adjustment provisions of the Codes should have been eliminated. In his opinion, they constituted the backbone of NRA labor regulations. Failure to enforce them contributed also very greatly to breakdown in the enforcement of other regulations. However, the scope and applicatory meaning of the adjustment provisions should have been defined more clearly in some respects (particularly in regard to degree of adjustments of hourly wages and in regard to periods to be used in comparison of preexisting and code wages). Such clearer definition would have been of considerable aid to the cause of compliance although other potent disintegrating influences, notably failure on the part of the field compliance officers either to understand or apply the understandable and applicable equitable adjustment provisions, played perhaps a major role in the breakdown of equitable adjustment compliance.

check on explanations was, of course, ever made since any informed official of NRA was privileged to offer an explanation. Nor were the field enforcement agencies entirely to blame for this state of affairs in view of the scandalously dilatory manner in which requests for rulings and interpretations were frequently handled. (*)

Again, the pressure put on seriously understaffed field agencies to adjust effectively as many cases in as short a time as possible placed an understandable temptation in their path to explain instead of refer for interpretation.

Again, it is reasonable to suppose that the short life span of NRA failed to permit of disclosure of a great number of various applicatory problems which would have been revealed with the passage of time.

No check was ever made of multiple code coverage problems as it was not required that a specific report be made covering multiple code cases. Even an examination of all State office files would not completely answer the question, as in a great number of cases, the files do not describe in detail the nature of the respondent's business or the method of computing restitution where restitution was recovered.

In conclusion it may be said that serious as was the problem presented by the applicatory difficulties already mentioned, their existence was not the paramount obstacle to the effectiveness of the activities of compliance. Methods of adjustment, lack of training of the enforcement officers, and failure to enforce NRA in the early days presented greater obstacles.

(*) Substantial but not satisfactory improvement in this regard was obtained with the inauguration of the mail control system introduced by NRA in the latter part of 1934 in order to expedite rulings.

C. Powers Limitations

From the beginning, NRA lived with the discouraging problem of securing compliance with codes without the help of any direct enforcement powers of its own to apply against wilful violators of the codes. By "direct enforcement power" is meant actual power to make effective administrative decisions without the need for enforcement process through outside agencies. For example, licensing power, including withdrawal or cancellation of licenses by administrative decision after properly proven violation of license conditions, as distinguished from enforcement by legal process with the penalties of fine and/or imprisonment. That this lack of power was not widely understood or realized throughout the ranks of industry and labor was of advantage, in the battle to obtain support for and voluntary compliance with the codes. But this toothless condition put an additional burden on the Compliance Division, which faced the increasing volume of complaints of non-enforcement of code provisions and yet dared not admit their own power limitations.

There were legal penalties for violation of the Act, which operated as a threat, but which in actual practice were shown to be of insufficient effectiveness, in coping with code violations. It must be remembered that these penalties, as given in Section 3 (c) and 3 (f) of Title I could be invoked only through Federal District Courts through injunctions obtained or prosecutions initiated by United States attorneys at the behest of NRA's Litigation Division, - or by appeal to the Federal Trade Commission for supplementary hearings and the issuance of Cease and Desist Orders. Slow motion was the characteristic of both procedures. They failed to meet the requirement of quick and effective action to curb real recalcitrants.

This lack of direct enforcement power for NRA's own use was neither an omission nor an error, despite the burden imposed by such lack of administrative authority. A review of the planning of the recovery legislation indicates that no such police power was seriously contemplated for direct administrative use, unless special circumstances had forced recourse to license industry authorized in Section 4 (b) of Title I. No emergency sufficiently acute ever came to the surface to justify placing industry under license control. The power to take such drastic action, in case of need, was never used; the threat may have been sufficient to quite potential revolt.

Full reliance was placed on the strength of an awakened public sentiment rather than on any inclusion of direct enforcement powers. Persuasion, education, and public support were to be the keys to code compliance, rather than the threat of coercion and punishment. This plan of action was outlined in President Roosevelt's statement at the time of his signature of the Act, from which comes the quotation:

> "This .... can succeed only if those who .... restore jobs have aggressive public support and <u>those who lag are made to feel the full weight of public disapproval</u>."

In fact, NRA's limit in the line of direct action was the removal of its own created property, the Blue Eagle insignia (a design-patent registered in the Paten Office) for proven violations of the codes. At the outset,

the state of public sentiment made this action decidedly formidable, in that Blue Eagle removal with publicity could and frequently did result in boycott action by the buying public. The threat of insignia withdrawal was often more effective than that of legal prosecution. But this was only during the babyhood of NRA, when public support was at full strength. Later on came the usual troubles of limited police power, with the cases of wilful recalcitrants whose violations were intentional and continuous, and where adjustment efforts were unavailing. In these cases, removal of the NRA Blue Eagle was actually but a gesture, and in the absence of supporting public sentiment, was completely ineffective.

Simple loss of the Blue Eagle, therefore was no real punishment for the wilful code violations in the overwhelming majority of cases, and the threat of litigation lost force as legal delays cumulated and puntitive actions through Federal Courts became less and less of a factor.

Later on, as code violators became more assertive of their rights and their attorneys began challenging NRA's powers, particularly in intrastate businesses, the Compliance Division faced the additional problem of lack of power to even require submission of books, records, payrolls, to examine businesses (except by consent or through ignorance of the owners), or to obtain the attendance of essential witnesses at hearings. Only in the label trades and with government contractors was compliance directly enforceable, for the excellent reason that removal of the Blue Eagle and withholding of labels was equivalent in effect to the loss of license to continue in these particular business activities. Consequently, threat of court action was unnecessary in these two exceptional classifications where failure to comply spelled loss of business.

Summarizing, NRA's only direct enforcement power, in actual practice, was the removal of the Blue Eagle for proved violations of the codes. Its whole enforcement problem was that of obtaining compliance by persuasion and without any coercive power. (*) Litigation was but a threat, ineffective ultimately because of legal delays, and also because of the increasing number of successful "unconstitutional" defenses to NRA code violation cases in court. Furthermore, in the work of fact-finding following violation complaints, NRA had no actual power to enforce attendance of Witnesses, production of records or even to make examinations through field investigators. This impotence contributed handsomely to the progressive breakdown of compliance, once public enthusiams and support subsided.

(*) Dearing, Homan, Lorwin and Lyon, The ABC of NRA (Brookings Institution 1935), 97:

> "The setting for the enforcement problem is seen in the fact that neither the NRA nor any agency established by it has any legal power to coerce any business enterprise into complying with the terms of a code. All its elaborate mechanism of compliance is therefore designed, first, to establish the fact of violation of a code, and second, to 'persuade' the violator to mend his ways and to 'adjust' complaints. Only at the end of the procedure is the case passed on to the Department of Justice or the Federal Trade Commission for the exercise of the government's power to coerce. To sum the matter up, the violator of a code is violating the law, but the Recovery Administration has no power to enforce the law. The Word 'compliance' is not therefore a mere euphemism for 'enforcement.'"

D. POLICY

The term "policy" embraces two categories: the legislative and administrative.

The National Industrial Recovery Act declared the legislative policy in terms quite general, this declaration being found in the opening paragraph which may be summarized as expressing two objectives: one, to increase mass purchasing power; and, the other, to eliminate unfair competitive practices. Beyond this general declaration of purpose, the Act provided methods of enforcement through the District Courts of the United States by injunction and by criminal prosecution and also required the Federal Trade Commission to make such investigations, when called upon by the Administration, as might be necessary to carry out the provisions of the Act. Furthermore, code standards were also made unfair methods of competition within the meaning of the Federal Trade Commission Act, thereby rendering them enforceable by the Commission through cease and desist orders.

Except in the particulars mentioned above, there was nothing in N.I.R.A. which served as a guide to the methods which might be followed in administration and in securing compliance. Such being the situation, the formulation of policy was felt almost entirely to those charged with the administration of the law. It follows, that the legislative policy as expressed in N.I.R.A. had little, if any, effect on compliance matters.

The trend of policy in the purely administrative field can best be determined by exploring the methods used by NRA in its efforts to obtain compliance with the codes. These are set forth in Chapter IV, Compliance Methods.

E. ADMINISTRATION

1. Industrial Adjustment Agencies.

The National Recovery Administration considered as fundamental within both the letter and intent of the National Industrial Recovery Act, that industry should govern itself. This concept of Industry's self-government was not a narrow concept extending to only a partnership with the Government in the formulation of the code but a concept sufficiently broad to include in the self-government, supervision over the adherence to the code regulations by the members of the industry subject to them. (*) Part one, Section 1 of Bulletin No. 7 defines the problem of code administration as an insurance that the public be protected under a regime of industrial self-government, to wit: "After a code has been approved, there remains the problem of code administration. The responsibility of insuring that codes are administered and the public is protected lies with the Administrator; but the aim of NRA is to give to Industry, through its Code Authorities, the widest possible range of self-government, subject to the ultimate responsibility of the Administrator." This responsibility for the protection of the public was of fundamental importance equal to, if not paramount over, the basic idea of industrial self-government. This protection was provided for by the presence of a representative of the public at all Code Authority meetings; this representative was known as

(*) Part one, Section 1 c, Bulletin No. 7

the Administration Member of the Code Authority. He acted as an adviser to the Deputy Administrator to whom the responsibility for efficient administration of the code had been assigned.

The submission of a code was evidence of a certain amount of organization of the industry submitting it. The subscription of the sponsors to a code and the formulation of the code which preceded its approval as an active set of regulations is evidence of organization. Many industries had been organized for several years. Some were new organizations born with the code. The idea of industrial self-government grew out of desires and objectives which trade associations were formed to achieve. These desires and objectives were similar to the desires and objectives of the NIRA. Both sought to encourage fair trade practices. The NRA, therefore, planned with the thought in mind that here were organizations already set up and trained in the work to be done. A Trade Association Division was established in NRA to carry out the policy "to build up and strengthen trade associations throughout all Commerce and Industry so that they may perform all code administrative functions." (*) The trade associations had, prior to the NRA, used educational activities as a means of accomplishing compliance with fair trade practices. Codes of Ethics were adopted by some as moral restraints (many unfair trade practices were not illegal). Some associations educated members to fair trade practices through the medium of studies of practices. Statistical analysis, or logical deduction from information reviewed would indicate the profitableness or fallacy of pursuing a practice. The trade association's fitness, from the standpoint of training or experience to handle trade practice complaints seems beyond reasonable doubt, but to obtain compliance as a law administrative agency was outside their experience. This was recognized by the NRA. (**)

The field of administration for compliance was an entirely new one. The purpose of trade association activity was to enhance the welfare of its members. If a conflict of interest arose between the members of the trade association and competitors in the industry who were not members of the trade association, or between the interest of the trade association and the public, a trade association, or its representatives sitting in judgment on a complaint might be biased in favor of the association -- yet the parallel interest of the association and the government in eliminating unfair trade practices, and the existence of an organization already formed, made the trade association the seemingly logical organization to utilize for trade practice compliance work.

The utilization of the trade association for labor compliance work was not so seemingly logical; trade associations were composed of employers, Code trade practice regulations governed the relations of the employer and his customer; code labor provisions governed the relations between the employer and his employee. The latter was a field of experience outside the activities of the trade association. They were not qualified therefore to act as compliance agencies for the code labor provisions. Industrial self-government, as the term is used by tradesmen, always has connected government of competitors on trading practices, not labor employment practices.

(*) Part one, Section II E, Bulletin No. 7

(**) Part one, Section II a, Bulletin No. 7

In order to protect the interests and rights of an employee under a code, there must be agencies convenient in location and functioning so as to protect the interests of the employee. (*)

How could this be done so that the aim of NIRA to have industry govern itself could be attained and the responsibility of the Government to protect the interests of the public be discharged? This was the problem.

NRA met these compliance problems with a field organization set up in fifty-three strategic cities; each office was under the direction of a State Director of the National Emergency Council. This field organization was a part of the Compliance Division of NRA under the direction of the National Compliance Director in Washington. This organization was to "fill the gaps in industrial self-government" by acting for industry to the extent required, "while the Industry was organizing to handle compliance problems for itself; or where an Industry in a certain territory has no Industrial Adjustment Agencies; or where an Industry, though organized to handle trade practice complaints, has no machinery to handle labor complaints; or where the Industry fails to carry through its efforts to adjust a complaint; or where for any other reason it is necessary for the government rather than the industrial system to act," ..... "Until an Industry is organized to perform this function (compliance) NRA will have to perform it, but it is the policy to pass this function on to all Industries as rapidly as they are ready to receive it." (**)

2. Division of Responsibility and Authority Between NRA Compliance Agencies and Industrial Adjustment Agencies.

The technique of adjusting complaints proposed by the NRA to Industrial Adjustment Agencies for their guidance and use was identical to the technique prescribed for the NRA Compliance offices. The adjustment of complaints was, theoretically, a fundamental function of industry in its self-government. Compliance activity by NRA was principally a stop-gap pending the time when industry would have organized itself to take over those functions. It acted also as a training school and as an assistant to the expenditious and efficient execution of the job.

NRA assumed full responsibility for effecient code administration and delegated authority to carry it out to code authorities as they qualified themselves to receive it. The first qualification required was the establishment by the Code Authority of a Trade Practice Complaints Committee. Again, membership on this Committee had to meet certain qualifications, to-wit: "Its membership should be representative of different groups and interests in the Industry, and should be persons of high repute for character, intelligence and fair-mindedness. As this committee will have important responsibilities it should be small enough to function actively, and its members should be persons who are free enough to give to the Committee as much time as its work may require." It was required also, that the Committee have such machinery as was of primary necessity to insure proper functioning on the procedure of handling complaints,

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(*) Part one, Section II-D, Bulletin No. 7

(**) Part one, Section II, Bulletin No. 7.

to-wit: "The Committee should have a legal adviser (unless one of its members is qualified to act as legal adviser and assumes the obligation to do so) and an executive secretary who will be charged with the responsibility for all routine correspondence and records." (*) A similar procedure was required to qualify for adjusting labor complaints and labor disputes.

After the qualifications for membership were met and approved, and after the Committee was approved and authorized to handle complaints, the Committee performed the procedure of adjusting complaints under the close supervision of the appropriate State Compliance Director. Complaints were referred to the Committee by the State NRA Office "on reference". The strict adherence to the procedure prescribed as the technique of adjustment was checked by a progress report on the case requested by the State Compliance Director at frequent intervals, such as five days or one week, etc. On June 15, 1934, Committees authorized to handle complaints were relieved of this supervision by the State NRA Office and allowed to adjust complaints without being checked by progress reports.

The presence of the Deputy Administrator was provided for at all meetings of the Committee by the attendance of his representative, the Administrative Member. The Deputy Administrator was responsible for the efficient administration of the code assigned to him; the Administrative Member was responsible to the Deputy Administrator for the proper functioning of the Committee. Theoretically, industry was to govern itself but under the supervision of NRA. Practically, the problem of efficient administration and proper functioning was more difficult to solve than its solution would seem projectively as a plan. Efficient administration of the code and proper functioning of administrative agencies depended upon a thorough knowledge of the code provisions and all administrative modifications and regulations, not by one person but by both the Deputy Administrator and his Administrative Member. Another fundamental requisite to successful discharge of NRA's responsibility was alertness to the details prescribed in the procedure technique of adjustment, to the harmony in NRA policy of policies in the making at Committee meetings. Accurate and adequate reporting by the Administrative Member was also a requisite to the Deputy Administrator if he was to efficiently discharge his responsibility as a supervisor acting through a proxy. Efficient administration of the codes and proper functioning of the Committees were therefore as varied, as the efficiency of the links in the chain varied.

3. Division of Responsibility and Authority -- NRA.

The enforcement agencies were the Department of Justice and the Federal Trade Commission. The State NRA Compliance officers and the Industrial Adjustment Agencies were adjustment agencies only. Therefore, "final rulings on interpretations, exceptions, exemptions and modifications are to be made by the National Recovery Administration, not by Code Authorities or by State Directors." (**) The delay inherent in the centralization of authority for issuing exceptions, exemptions and interpretations was of major importance as an administrative problem of compliance. This authority was centralized in the administrator. Regulations required that advisory bodies also pass on the question, to-wit the Industrial Advisory Board, the Labor Advisory Board, the Research and Planning Division and the Legal

(*) Part three, Section II a, Bulletin No. 7.
(**) Part one, Section V, H, J, and K-2, Bulletin No. 7.

Division. Each was a potential delay. The Administrative Member represented the Deputy Administrator in supervising the policy making and functioning of committees as an umpire on the ground where self-government by industry was taking place. Administration as a compliance problem might have been mitigated if the Administrator could have been represented in a like manner on these attributes of self-government technique.

The problems of compliance began with the President's Reemployment Agreement campaign of August 1, 1933. When signed, the President's Reemployment Agreement was treated as a legal contract.

In recognition of the fundamental policy of industrial self-government, the enforcement of the contract (the PRA) was provided for through local adjustment boards organized in cities, villages, towns, and counties. The boards were composed of leading citizens, business men, selected by responsible bodies, such as the Chamber of Commerce, or a group of citizens organized for the purpose. The members served without pay and could act only after authorized by the NRA. The Board followed a procedure outlined by the NRA consisting of a notification to a respondent of a complaint, informing him of the essence of the complaint and citing the paragraph of the agreement violated. The facts of the complaint were investigated by correspondence, or by contract with the respondent by an adjuster, either at the respondent's address or at the offices of the local Compliance Board. Hearings were held whenever necessary, or desired, before the assembled Board. After the facts were developed and the Board's dicision rendered on the case, the violations were rectified by bringing the compliance of the respondent up-to-date by payment of restitution (the difference between the amount paid and the minimum required by the agreement)where restitution was due- and a certificate of compliance insuring future compliance. Where the violation could not be rectified by restitution, a certificate of compliance only, was the price of adjustment. When a case was unadjustable the case was referred to the State NRA Compliance office in whose territorial jurisdiction the local compliance board was located, with a recommendation that the Blue Eagle be removed.

The President's Reemployment Agreement campaign was promoted energetically; patriotism was worked up to a fervent pitch by auxiliary organizations, such as women's clubs in house-to-house solicitation of Blue Eagle window display insignia, identifying those who agreed to trade only with tradesmen displaying Blue Eagle membership insignia, and speakers before luncheon clubs, rallies and other meetings. The result of this campaign was to create an avalanche of inquiries by mail, inquirers in person, complaints by mail, complaints in person, administrative questions by local compliance boards, complaints from respondents of acts by boards in excess of their authority, complaints from complainants that justice had been denied them, complaints from complainants that action was too slow, or that the investigation was inadequate, complaints from business men and respondents of oppressive regulations, and many other problems.

An immediate problem of administration was the immediate need for interpretations of the articles of the President's Reemployment Agreement. Scores of questions arose in the adjustment procedure of the local compliance boards that required information beyond that in their possession. Many interpretations were required to clarify ambiguities. The State NRA

office could explain but could not interpret agreements, therefore communication with Washington was frequent - almost constant at times. The volume of requests of this sort and the time required to get through the required approvals often delayed for several days what should have been immediately available to have done an efficient job of compliance. These delays jeopardized the morale of highly emotionalized persons among both the parties of a complaint and the local compliance board. It encouraged local compliance boards to do their own interpreting and consequently create a serious problem in morale for the supervising NRA Compliance office which ofttimes had to repudiate the local compliance board and weaken thereby their standing and prestige as Administrators.

Another major problem in administrating the supervisory responsibilities of the State NRA Compliance office was the lack of interest of the individual members of the local compliance boards in familiarizing themselves with the details of procedure and of the PRA, the modifications, interpretations, etc. NRA instructed the State NRA Compliance offices by bulletins and field letters. The State NRA offices instructed the local compliance boards, similarly by bulletins and individual letters. Problems were created often by failure to heed these instructions; failure to keep informed systematically. In the beginning a problem of NRA administration from a personnel standpoint was to have sufficient persons who could interview callers; correspond with inquirers and answer 'phone inquiries. The callers represented various interests; some were potential complainants inquiring in detail the basis for complaint; some called to recite the conditions of their employment; some were business men inquiring the meaning of provisions; some came to recite their situation and the oppressive character of certain provisions, some called to sign up an agreement; some to give information on violations; mail inquiries and phone inquiries covered a very similar range. An attorney was an important staff requisite at that time. All questions of ambiguity arising from inquiries or from compliance activities, pertaining to provisions not explanable in themselves, or by official interpretations were referred to the office attorney. The attorney was a counselor. A State NRA Compliance Director acting as Chief Executive, an office manager acting as business manager, or administrative assistant, clerks maintaining a file of PRA executed forms, supplies, etc, a telephone exchange operator who also acted as a receptionist or information clerk, a messenger, and stenographers made up the office staff. The division of duties differed with the need of the office; in small offices some of the duties outlined were consolidated, in large offices greater specialization was necessary.

When a code was approved, the industry covered by the code automatically became subject to the code as of the date and under such conditions as it become effective - and at the same time any PRA which a member of that industry had signed became null and void. As the number of codes increased the personnel handling interviews, correspondence, and inquiries was gradually transformed into field ajusters. The nature of their duties remained the same except for the introduction of a new procedure which added to their work as interviewers or correspondents under the PRA, namely, the technique of adjusting complaints relating to alleged code violations. Codes were approved in considerable numbers - figuratively, daily; in a short time the interviewers became adjusters exclusively, either of cases

involving code violations, or of cases involving FRA violations. The administrative problems of compliance remained similar in character and arose from the same causes as described during the FRA period.

The division of duties and responsibilities in the NRA State Compliance Organization remained the same in character. The change brought by code administration was largely an addition of a supervisory responsibility. The code compliance organization contained a Labor Compliance Officer. His duties were an assumption of responsibility for the proper and prompt adjustment of cases involving violations of code labor provisions (except 7-a provisions regulating labor disputes). In large offices, where greater division of duties was necessary, or advisable, a similar supervisory position was maintained for cases involving violations of trade practice provisions. This position was filled by a Trade Practice Compliance Officer. Where such specialization was unwarranted, the duties of that position were consolidated with those of the Executive Assistant.

The procedure for adjusting complaints was designed to accomplish compliance by education; to stop non-compliance by persuasion. Under a procedure so built, dealing with a type of crime that represented continuous damage to all subject to the law during the period of transgression, speed in adjustment (the cessation of the transgression) was the keystone that held the arch of compliance together. Decentralization of responsibilities and authority might have been a solution. The problems of administration created by the continued centralization of authority, or duties, in the Deputy Administrator on interpretations, exemptions, etc., has been cited in a preceding portion of this report.

The work of adjustment began when the adjuster first notified the respondent of the complaint filed against him. Before this step in the procedure had been reached, the complaint could have been seriously delayed going through the routine, preliminary to the assignment of the case to the adjuster.

Specialization of adjusters on codes was found to be conducive to more efficient and more rapid adjustment. Specialization of adjusters on trade practice cases and on labor cases was also found to be desirable. Each was a separate field of interest. An adjuster whose range of experience was as a tradesman and whose field of interest was trading could investigate the facts in a trade practice case more proficiently and adjust the violations more promptly and more justly than an adjuster without such background. An adjuster whose range of experience had been in union activities, or as a factory employee, or production official and whose field of interest was social justice was a more proficient adjuster on labor cases. An adjuster who had an equal experience and an equal interest in both fields was the exception rather than the rule. Such a person was ideally qualified for use in a territory covered by a traveling adjuster handling all cases from such territory. (*)

(*) This represents the opinion of the author, gathered from personal experience as executive assistant in the State NRA Compliance Office for Illinois.

4. Training Personnel.

The mass of information with which the adjusters and supervisory officers had to be currently familiar poured in from Washington daily and often in considerable volume; new codes were almost daily receipts, so also were amendments to code provisions, amendments to codes, interpretations of code ambiguities, instructions in Washington Compliance Division field letters, new or changed procedure, etc. In adjusting a case, the latest interpretations of a provision in question had to be known. All modifying regulations, such as Executive Orders and Administrative Orders that transcended all codes effective up-to-the-minute had to be known also.

The mass of information referred to above, accumulated at a rapid rate. It presented a problem to new adjusters and supervisors and often bewildered them the first few days. It was necessary to train new adjusters by first familiarizing them with what had gone before in the developement of NRA and its codes and modifying provisions and regulations; then to work into the actual work of adjusting under the tutorship of a veteran adjuster.

Members of trade practice complaints committees were elected from the industry itself. Their training and experience was in the industry, and therefore the problems of the industry were daily subjects of their thought and concern. These subjects probably occupied a major portion of their thinking and defined the boundaries of a considerable portion of the world in which they lived, mentally. These men would be apparently ideally qualified to act as technical advisors to a judicial body, but present a potential problem when considered as members of a judicial body per se.

The same reasoning may be applied to the full time secretaries employed by the Committee to perform the routine functions of procedure. Many secretaries were former trade association secretaries whose salary and experience came from the industry employing them as custodians of compliance. When employed by the NRA as custodians of compliance (the phrase "custodians of compliance" is used here for clarity of comprehension; it does not refer to an official title) the trade association experience provided the field adjuster on trade practice cases a technical education on trade practices that helped him to comprehend the essential factors of the adjustment problem of his case. The adjustment procedure was designed to depend largely on education as the instrument of compliance. When the adjuster had a techical knowledge of the practices regulated and of efficient business administration, his success as a field adjuster was enhanced. His role as an educator was strengthened. The cinfidence of the respondent in the adjuster's recommendation was materially higher under such circumstances. The adjuster had to know the practices judged to be competent to weigh the evidence submitted. The efficient adjustment of a complaint depended also on the adjuster having a detailed knowledge of the code provisions of the code governing the case in hand, and of all modifying interpretations, administrative orders, executive orders, exemptions, stays, etc. A very small percentage of the codes approved and in effect accounted for a majority of all complaints filed. This favored specialization as a solution to the problem of "knowing the code" by the adjuster. Certain codes could be

assigned to certain adjusters and both speed and efficiency on the part of the adjuster improved as a result. (*)

At first, adjusters invited parties to a complaint, to the office of the adjuster for an informal investigation of the complaint. All investigations were made at that time in the adjuster's office. The procedure gradually changed as experience was gained, to a combination of inside and outside investigations. Many times the information that could be obtained by the adjuster from a personal call on the respondent at the respondent's place of business would facilitate the adjustment, thereby shortening the time period of adjustment effort and increasing the adjuster's output. Certain correspondence was necessary in connection with every case, and a meeting in the adjuster's office was advisable when the investigation required both parties to the case (the respondent and the complainant)to be present at the same time. The adjuster's working time might be roughly divided at 50% in the office and 50% outside. It should be understood at this point that the practice described here, although believed to be typical, varied with State Officers within the range of freedom allowed for individual office policy in interpreting and applying the fixed procedure prescribed by NRA Bulletin No. 7, or Compliance Division field instructions. The evolution and structure of the organization for compliance is treated comprehensively in the history of the Compliance Division. This review is therefore confined to viewing in retrospect the problems that arose from practical experience that might suggest subjects for consideration by a reader interested in building or improving experimental experiences.

(*) This is the opinion of the author taken from his experience as Executive Assistant in the State NRA Compliance Office for Illinois.

F. INDUSTRIAL SELF-GOVERNMENT

Under the NRA plan the self-governing functions of industry were many and varied; the trade associations or code committees participated in the drafting of the codes; the Code Authorities gathered information and performed many other functions. In this study we are concerned only with the functions performed by industry in securing compliance with the codes after they were promulgated.

The National Industrial Recovery Act included in its declaration of policy the following -- "...it is hereby declared to be the policy of Congress to ... provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision ...".

Title I, Section 3 (a) of the Act empowered the President to approve codes of fair competition submitted by trade groups and provided that he might as a condition of approval, impose such conditions including the making of reports, etc., as he might deem necessary.

Title I, Section 10 (a) of the Act empowered the President to make such rules and regulations as were necessary to carry out the provisions of the Title. The Act exempted those who complied with the codes from the operation of anti-trust laws insofar as actions which were in compliance with the codes were also in violation of the anti-trust laws.

It would appear from these provisions of the Act that Congress intended to permit and encourage industry to exercise a larger measure of self-government by cooperative action than had been possible under the anti-trust laws and that it delegated to the President the authority to set up the machinery which was to bring about self-government by industry.

Chapter III, A (General Scope and Nature of Compliance Task) of this study points out that NRA was faced with a vast administrative problem in securing compliance with the codes. It welcomed the assistance which it believed industry would afford in this connection.

A great many members of industry were fearful that the Nationa Industrial Recovery Act would give rise to entirely too much governmental interference in the conduct of business. The declaration on the part of NRA of its intention to permit industry to govern itself, no doubt tended to assuage this fear on the part of industry.

These were the main reasons for enlisting the aid of industry in securing code compliance. There were, of course, arguments to be advanced against permitting industry to have a hand in this work but it is sufficient for the study of the topic under consideration to accept the fact that a policy of industrial self-government, insofar as code compliance was concerned, was adopted and then to determine the problems created by such a policy.

Aside from the mandates of the Act, NRA sponsored the idea of industrial self-government insofar as compliance was concerned, because it hoped that by the cooperation of at least a majority of the individual members of industry, voluntary compliance with the code for a particular industry would be obtained and the force of public opinion within the industry would be of great assistance in bringing about compliance on the part of those members of industry who would not at first voluntarily comply with their code.

In theory industrial self-government is a beautiful idea. In practice it was something else again.

In addition to the control which industry was permitted by NRA to exert over the writing of the codes, the various Code Authorities, after they were set up, were repeatedly encouraged to take steps to establish agencies of industrial self-government which were to be charged with the responsibility of obtaining compliance with the code for their particular industry. This was directly in line with the declared policy of Congress and it may be said that under the National Industrial Recovery Act, the primary duty of NRA insofar as compliance is concerned, was to see that industry governed itself, that is to say, that each industry having a code obtained compliance with the code through its own agencies and that the compliance efforts of the Government should be merely supplementary to the compliance activities of industry itself.

At the beginning of the NRA program, the majority of the members of trade and industry were entirely unorganized. Those which were organized in trade associations had never openly attempted to enforce definite rules or regulations for the government of the industry.

During the preceding thirteen years, the Federal Trade Commission had established some one hundred and fifty codes of fair competition embracing trade practice, but not labor, regulations. Some of the industries for which these codes were written established Fair Trade Practice Conference Committees which were to assist the Federal Trade Commission in enforcing their code and report to the Commission cases they were unable to adjust.

In a letter dated October 24, 1935, Henry Miller, Member, Trade Practice Board, Federal Trade Commission, states, "For reasons stated above I do not have available the number of complaints considered or adjusted by these committees, or the number of such complaints which the committees may have reported to the Commission." It is safe to say that these committees reported very few violations to the Commission

and from this fact the Commission drew the inference that violations were correspondingly few. (*)

NRA's experience with mass compliance methods proved beyond a doubt that the fact that it received few complaints of code violations in a particular locality or in a particular industry was not proof that violations were correspondingly few. The fact that complaints of violations of the Federal Trade Commission codes were so few would indicate that the industrial committees were inactive, hence industry got little compliance experience in its venture into Federal Trade Commission codes.

The great majority of the industries having Federal Trade Commission codes were either small or else only a sectional portion of a particular industry. Prior to the National Industrial Recovery Act, the Federal Trade Commission codes represented the only legal efforts looking toward cooperative industrial self-government, therefore, granting for the sake of argument that those industries affected by the Federal Trade Commission codes were able through industrial self-government to obtain compliance with their codes, it remains that the vast majority of industry had no experience in obtaining through its own efforts, compliance with any definite set of rules and regulations for its own government.

At the time the National Industrial Recovery Act became a law, there existed some four hundred trade associations, approximately one-half of which exerted influence only over a limited area, which were fairly successful in obtaining complaince with certain rules and regulations agreed upon by the association members. However, these rules and regulations which were not announced to the public; usually had to do with price and production control; and the methods used to obtain compliance with these rules and regulations were of a sub-rosa nature about which the least said the better. (**)

There was not a known example of an industry attempting to enforce definite wage and hour standards on its members through trade associations or cooperative action.

Thus it may be said that industry as a whole had very little or no experience in obtaining compliance with any legal set of rules and regulations for its own government through its own legal efforts.

(*) Letter dated October 24, 1935, from Henry Miller, Member, Trade Practice Board, Federal Trade Commission, "Our experience, however, has been that the fair trade practice rules promulgated under the auspices of the Commission through its trade practice conference procedure are adhered to with little exception. Reports of violations have been comparatively few. Compliance was never much of a problem but has been readily forthcoming once the rules were adopted and promulgated. Moreover, it was a rare instance in which legal proceedings were necessary in order to bring about compliance."

(**) These statements were made on the authority of a member of the Bureau of Foreign and Domestic Commerce of the Department of Commerce.

In this totally new field of industrial self-government there were no precedents or guides to be followed except those extra legal methods which had been used by trade associations and the like to whip recalcitrant members of industry into line. A number of Code Authorities and their Industrial Adjustment Agencies made the mistake of attempting to use these same methods to force compliance with the codes. Naturally such methods caused animosity towards the whole code structure on the part of those members of industry who felt that they had no direct representation on the Code Authority and that the codes were being used by their powerful competitors who did have representation on the Code Authorities, for their private gain.

NRA constantly urged and finally required each Code Authority to submit a plan for setting up Industrial Adjustment Agencies to obtain compliance with their particular code. (*)

The organization of these Adjustment Agencies was rushed along as quickly as was possible. No time was given these Adjustment Agencies to train employees and no reserve of trained personnel existed. As soon as these Agencies were set up they were authorized by NRA to handle complaints and given as a guide to the method of handling these complaints, NRA Bulletin No. 7 which contained rather vague and general instructions but was of little or no assistance to the Industrial Adjustment Agencies in formulating a technique for handling complaints. Adjustment technique was gradually developed by NRA but a large number of Industrial Adjustment Agencies were established and operating long before NRA had worked out definite instructions even for its own field agencies. Blunders were made which resulted in antagonizing members of industry against whom complaints were made and those persons who made the complaints because these were improperly handled.

Code Authorities and the Industrial Adjustment Agencies set up by them were usually composed of the members of the particular industry involved. When the industry member against whom a complaint was lodged appeared before an Industrial Adjustment Agency in answer to their notice that a complaint had been filed, he was confronted by his competitors who were to act in a quasi-judicial or at lease quasi governmental capacity in adjusting the complaint. A large portion of such respondents (persons against whom a complaint was lodged) felt that they would never be able to get a square deal from their own competitors. In fact, it must be recognized that it placed a great strain on human nature to ask a member of industry sitting as a member of an Industrial Adjustment Agency to divorce himself entirely from his own business interests and handle complaints made against his competitors in an entirely impersonal and fair manner. Inevitably, personal differences arose and charges of persecution became rife.

(*) Office Manual: Paragraphs III 1400; III; 1500, Administrative Orders No. X-12, No. X-69

NRA maintained a compliance system which was to supplement the efforts of the Code Authorities and their Industrial Adjustment Agencies and when an Industrial Adjustment Agency was unable to adjust a complaint, it was to refer this complaint to NRA. In a large number of cases, however, NRA found that the manner in which the Industrial Adjustment Agency had handled the complaint had so antagonized the respondent that he was totally unresponsive to any efforts to amicably adjust the complaint and NRA's compliance efforts failed in such cases.

A great number of the industries which had codes were composed of a small number of units, others were made up of units the majority of which were located in a small section of the United States with only a few units scattered here and there over the country. Under these conditions, such industries found that the expense of maintaining compliance machinery to cover the entire industry was great and because of the expense the industry was unwilling to maintain adequate compliance machinery.

An examination of the budgets submitted to NRA by the Code Authorities indicates that industry did not approach the compliance problem realistically. Despite the fact that by far the most important and difficult task confronting the Code Authorities was the code compliance work assigned to them and their agencies, the majority of the monies appropriated by the budgets were earmarked for other purposes where any earmarking or recapitulation of the budgets was attempted.

Each Code Authority was instructed to set up Trade Practice Complaints Committees and later Labor Complaints Committees and they must have, in the majority of cases, formulated their budgets with knowledge of the fact that the burden of obtaining compliance with their particular code during the period covered by such budgets devolved upon them. Nevertheless, it is apparent that a minor portion of the funds to be raised by the Code Authorities was apportioned to the compliance functions which were the most important and, if properly performed, the most expensive of the functions of the Code Authorities.

For some reason the Code Authorites and their Industrial Adjustment Agencies failed or refused to cooperate with NRA in their compliance activities, failed to follow such regulations as were promulgated by NRA for the guidance of such agencies and failed to report to NRA concerning their activities. For example: The Compliance Division requested all Code Authorities which were authorized to handle complaints to report at regular intervals on the number of complaints received, the number adjusted, etc., on blank forms which were furnished to the Code Authorities but despite the fact that the Code Authorities were repeadedly urged to file these reports, in one report period in April 1935, at a time when four hundred and ninety-three Code Authorities were authorized to handle trade practice complaints and twenty-one were authorized to handle labor complaints, only one hundred and thirty-two authorized Code Authorities reported on their trade practice complaints and six on their labor complaints. This unwillingness to cooperate

with the Government when these Agencies were exercising quasi-governmental authority, regardless of where the fault may lie, resulted in greatly reduced efficiency in the compliance efforts of both the Code Authorities and NRA.

G. LITIGATION

In the early days of NRA, as has been more fully discussed elsewhere, the policy was to secure compliance if possible through methods of conciliation and education. Later, and near the end of March, 1934, a change in policy took place when the idea of punitive measures was advanced because the earlier methods had failed to produce desired results. As a result, litigation and prosecution activities gained in importance and increasingly became a major concern in administration activity.

As has been seen, NRA charged the Department of Justice (Attorney General) and the Federal Trade Commission with the enforcement of its terms. (*)

However, NRA being charged with the administration of the Act, regarded enforcement as being a necessary duty incident to administration. Therefore, NRA took upon itself, the latter part of March, 1934, the burden of coordinating enforcement efforts among those branches of the Government which were specifically charged with enforcement responsibilities.

1. EFFECT ON COMPLIANCE OF LITIGATION ITSELF AND OF LACK OF LITIGATION.

It was of necessity highly desirable that NRA should have some voice in the selection of those cases arising under the Act, wherein adjustment efforts had failed, and upon which court action or prosecution should be undertaken.

Obviously, great confusion would have arisen if the Department of Justice had proceeded indiscriminately with the prosecution of cases, as the Act expressly empowered the Attorney General and District Attorneys to do, while NRA was concurrently attempting through its compliance machinery to adjust the same cases and bring recalcitrants into cooperation with the code program. This problem was resolved by a circular from the Department of Justice instructing District Attorneys generally not to accept any cases under NRA from any other source than NRA itself. (**)

In conformity with established compliance policy, attempts were made in all cases to obtain compliance from the violator through conciliatory methods before court action was decided upon. Except in unusual cases, very few in number, no court action was taken if compliance efforts were successful. However, each case had its own peculiar facts, and it was necessary to decide at what point in the handling of a case compliance efforts should be abandoned and the case referred to the Department of Justice for action.

A Litigation Division had been organized by NRA within its Legal Division under the supervision of a Director of Litigation who, in turn, reported to the General Counsel, and it became a primary duty of the

(*) Section 3(b); Section 3(c); and Section 3(f), NIRA, the latter making violations a misdemeanor.

(**) Department of Justice Circular No. 2538 dated April 9, 1934

Litigation Division to select the cases upon which court action was to be taken. Under the procedure, cases were received by the Litigation Division from the Compliance Division with the recommendation that court action be taken thereon. However, not all of the cases referred by the Compliance Division to the Litigation Division were actually prosecuted, many being deemed too weak on the facts, others being returned for the development of additional facts and further investigation, and still others being held in abeyance pending court decisions in pending cases involving similar questions.

The selection of cases upon which court action was to be taken was not, however, the sole concern of the Litigation Division or the General Counsel, but also that of the Director of Enforcement whose office was established by Office Order No. 83, dated April 9, 1934, his duties being to supervise "policies governing compliance, enforcement and litigation (this latter in conjunction with the General Counsel)."

The Litigation Division in discharging its functions was immeasurably handicapped because it had no investigatory staff of its own and depended almost entirely on the field personnel of the Compliance Division to gather the evidence upon which the cases were based. It was unnecessary at the start of an investigation, for the field force to gather evidence which would conform to court requirements, since the first object was to obtain voluntary compliance. Therefore, only a small percentage of the cases received and handled by the Compliance Division ever reached the Litigation Division for court action.

As time passed, the question with ever increasing frequency arose as to whether a field worker should spend time and, if so, how much time in attempting to gather legal evidence in the cases while he was endeavoring to adjust them. The judgment of the individual field workers throughout the country upon these matters varied greatly and, in a substantial percentage of cases, resulted in insufficient legal evidence being gathered, which necessarily caused long delays when, later on and after adjustment efforts had failed, it was decided to prosecute.

Such being the procedure under which decisions were made to prosecute, and such being the problems confronting the compliance and enforcement agencies, it is well to now consider the effect on compliance of litigation and lack of litigation. One very readily reaches the conclusion that litigation and lack of it had a decided effect on securing compliance. Statistics reveal that 2064 cases were referred by the Compliance Division to the Litigation Division with recommendations for court action, and that of these only 564 cases ever reached court. These figures demonstrate clearly that there was a pronounced lack of litigation which should have been instituted in support of the compliance program. This failure to litigate, hardly chargeable to the Litigation Division, because it had practically no facilities for investigation, had a very depressing effect on compliance and contributed in a material degree to the failure of code administration. On the other hand, such little litigation as was attempted, contributed its mite to help compliance and prevent the absolute and utter failure of the enforcement program.

2. EFFECT OF COURT DECISIONS AND THREATS OF LITIGATION ON COMPLIANCE.

Code Authorities quite generally were constantly urging the prosecution of alleged violators within their respective industries so as to provide examples for others, and State Directors were similarly concerned about alleged violators located in the communities under their respective jurisdictions. Hence the Compliance Division had to keep in mind the effect of litigation on compliance in general in making decisions as to what cases should be sent to the Litigation Division for court action.

It is axiomatic that the successful prosecution of a violator, under a penal statute, will substantially aid the enforcement of that law. This was true not only of prosecutions under NRA, but of all court actions thereunder.

The successful prosecution of a case under an NRA code or agreement had a compelling effect on other persons engaged in that particular industry, and thereby was an effective influence toward securing compliance. And, this was notably true also of persons in the respective industries who were operating in localities where the prosecutions took place.

On the other hand, it was a self-evident fact that the failure to prosecute consistent and flagrant violators in a particular industry or in particular localities had the effect of causing others in that industry or locality to feel that they could also flout code provisions with impunity.

Nevertheless, the threat of court action was, in some instance, a powerful deterrent on code violators or at least on prospective code violators and was a successful weapon in obtaining the satisfactory adjustment of cases of past violation. This was especially true in the early days of compliance efforts. The question of whether the possibility of future court action should be called to the attention of a violator and at what point in the course of the compliance procedure it should be mentioned because a problem of compliance.

It is impossible in a discussion of this subject to review the manifold decisions which were obtained in the courts on alleged violations of the codes, but it should be said that wherever success was had in the courts, the favorable decision had a stimulating effect on compliance and served as a powerful deterrent to others who might otherwise have felt inclined to commit violations. It is regrettable that the Litigation Division, due to lack of staff and facilities for investigation, was unable to institute a larger volume of litigation, because the failure to promptly institute litigation had a depressing effect on compliance and gave persons inclined toward violations the impression that they could disregard code provisions with very little risk.

H. PUBLIC OPINION

1. RELATIONSHIP OF PUBLIC OPINION TO COMPLIANCE

Concerning the relationship of public opinion to NRA compliance, it may be aptly asked whether the former affected the latter to the same extent that compliance or non-compliance may have motivated public opinion. Undoubtedly it is true that the significance of adherance to the vast body of regulations which constituted NRA cannot but have had profound influence on conceptual thought. The effect of NRA and of NRA administration (it is recognized that the expression "NRA administration" may be termed a tautology) on the personal affairs of the nation, and the general importance of the activities touched, amply explain this influence. On the other hand, public opinion must certainly have exercised a potent effect on compliance. Indeed, compliance with law, as also law, itself, is dependent on public opinion since the function of law is the representation of crystalized expression of such opinion.

2. INTERACTION OF NRA COMPLIANCE AND PUBLIC OPINION

Possessing the initial advantage of favorable public opinion the problem faced by NRA Compliance in dealing with public reaction was the maintenance of this favorable opinion. The continuation of the solidarity of approving popular thought was vital to the cause of compliance as the compliance administration, especially in its earlier daus, relied on the cooperative force of public opinion to enforce its mandates.

Passage, itself, of the statute by Congress betokened the large degree of public support backing the measure. The Congressional debates preceding its enactment demonstrated the signal degree of friendly unanimity with which it was received. Only here and there an isolated voice questioned the wisdom of the new law. Assuming that Congressional sentiment reflected the opinion of the country at large, the chief explanation of public endorsement of the measure is attributable to the intense desire of the country for a change from threateing current conditions.

It is a matter of history how, whipped to a fevered pitch by the leadership of the President, by the combined efforts and drives of the various public and administrative agencies, public enthusiasm surged forward to a point at which it could almost be termed hysterical.

Yet the seeds of danger, to compliance, as well as to all other phases of NRA, lay in the very excess of popular approbation which looked to NRA for deliverance. It was but natural that the pendulum should seek to retrace its course from the extreme of the arc reached. It was but natural that disaffection should spread to the extent that the expectations held failed of realization. The expectations, themselves, largely because of extravagant suggestions, assumed a form completely out of proportion to any results which might logically have been anticipated. It was felt that the panacea of the millenium was at hand, that a planned new structure and the benefits of organized economy were

about to wipe out current evil social conditions and eliminate all eventuality of future depressions.

Such results as were obtained, or even as could have been obtained by NRA could not but have adversely compared with the sanguine hopes entertained. Therefore, disillusionment to a certain degree was inevitable -- and to that extent compliance efforts were prejudiced.

It is, moreover, questionable whether the public ever became fully aware of many of the far-reaching benefits of a reformative nature which NRA sought to induce. That this is true, is probably attributable to the emphasis laid on the purely recovery benefits expected. Indeed, the great bulk of adverse newspaper criticism directed against NRA was aimed at what were conceived of as interfering efforts of ill-considered reformative nature which operated to retard recovery. Few even of the more virulent editorials attacked the measures as detrimental to the cause of reform. The preponderance of critical onslaught sought to assimilate recovery with reform by suggestions that the latter would be attained with the former. The validity of such a concept is neither disputed nor conceded in this report as it lies outside of the field under consideration. It is, however, to be stated that, if the two goals must be dissociated, the odd confusion resulting from the merger of the two was largely stimulated not only by certain wording in the Statute itself, but also by a conscious administrative effort to shape public opinion in the mould of recovery anticipation.

When complete recovery failed to come as a result of NRA, or, which amounts to the same thing, if the people thought it had failed to come as a result of NRA, it was too late to "talk reform". Any such attempt would have been looked upon as rationalization after the fact, or worse still, as "face-saving". Weighed in the crucible of public opinion, NRA was found unproductive of tangible recovery benefits and hence wanting as a recovery measure, and therefore unsuccessful--the unforgivable sin. For if it is true that, to the public, nothing succeeds like success, it is equally true that nothing to the public is so terrible as lack of success, particularly anticipated success.

This negative disenchantment with respect to results obtained traced itself out in a pattern gradually widening with the passage of time, although there is reason to believe that the process had commenced as early as middle September 1933. But if the results obtained presented to the public any difficulties of assessment, the methods employed by NRA to attain them, because factually clear, did not. The discrediting of the means adopted was, of course, a potent influence in bringing into doubt the worth of the results.

It is safe to say that the full import of the potential administrative power accorded by the loosely worded statute did not, at the start, fully impress itself upon public consciousness. As the realization began to take outline, as the method of administrative regulation began to unfold, dissatisfaction began to manifest itself -- a dissatisfaction strengthened by dissipation of fears once widely held of the impending social and economic collapse of America.

This dissatisfaction expressed itself variously with the personal rule of General Johnson, the threatened boycott and "crack-down" methods, the multiplicity of Board and Commission, the complexity of administrative regulation and policy, the conceded incompetence of a portion of the administrative personnel, charges of unequitable practices and bureaucratic intolerance, code administration by industry members, the pronouncements as to unconstitutionality and with a hundred other things. Such dissatisfaction found ample pasture upon which to fatten in the various "incidents" occurring, such as the lack of cooperation evidenced by Henry Ford, such as the fulminations of certain well known politicians, such as the reports of the so-called "Darrow Board" and of the Brookings Institution.

The adverse effect of non-compliance on compliance through the medium of public opinion cannot be overestimated. The curious viciousness of the circle effected appears when it is realized how fully compliance relied upon public opinion as a weapon of enforcement. It may be stated, with some degree of confidence, that failure of compliance at an early date to resort to positive compliance methods of legal and semi-legal nature and the resort instead to public opinion to attain the desired end, operated disasterously to alienate the very force to which appeal was made. Aside from the fact that public opinion is not a suitable instrument to draw the precise lines of demarcation necessary to the effective administration of law, there is the further difficulty of presenting the case effectively before the bar of public opinion.

The direct effect on individual compliance cases of wide non-compliance fostered by failure to adopt proper enforcement measures is so obvious as not to be needful of further elaboration. NRA experience showed that the most common excuse for not complying was the failure of one's neighbor to comply.

Equally important, however, was the effect of non-compliance on group or public opinion, so that it is correct to speak of the strange paradox of public opinion, compliance's whip, as being turned against compliance.

That some of the attacks delivered on NRA proceeded from reasoning after the fact, some of it sincere, some not, does not alter the fundamentals of the picture. Of them all no generalization can be made save that the great majority deemed to proceed from emotion or emotional self-interest rather than from logic.

CHAPTER IV

COMPLIANCE METHODS

A. COMPLAINT SYSTEM

1. Field

The originial "Regulations for the Adjustment by District Compliance Directors of Complaints of Code Violations" established the procedure to be followed by the field in carrying out its functions. Under this procedure, and that promulgated for the Local Compliance Boards in handling the President's Reemployment Agreement, (*) the sole basis for activity in obtaining compliance was the filing of complaints by employees, com-

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(*) NRA Bulletin 5, "Regulations on Procedure for Local NRA Compliance Boards" (September 12, 1933), PP. 2-6 inclusive. The procedure provided briefly was as follows: When a complaint of violation was received, it was examined for legal sufficiency by the legal member of the Board. In the event the complaint stated a prima facie violation, notice that it had been filed was given the employer. The notice might be either written, telephonic or personal, and was supposed to assume compliance and that the complaint was due to a misunderstanding. Together with the notice, the respondent was furnished with copies of the PRA and official explanatory releases. The provisions of the PRA were then explained to the employer by a member or a representative of the Board in an informal personal interview, and the respondent was allowed to explain the facts alleged in the complaint and to make any necessary adjustments in working conditions.

In the event the complaint was not adjusted by the foregoing procedure, the respondent was given an opportunity to appear before the Board and state his case. Notice of opportunity to be heard before the Board was not in a prescribed form, but had to be sent on official NRA stationery in a franked envelope, and was to include copies of the PRA and official explanatory releases, unless previously furnished.

Hearings were to be conducted by the Board on an informal tone, for the purpose of educating the employer and influencing him to comply voluntarily. The Boards were instructed that they had no power to compel the attendance of the employer and witnesses, the production of books and papers, or the giving of testimony. Questions were to be confined to the single purpose of determining the validity of the complaint, and were to be used chiefly to aid the respondent in making his voluntary statement. If the respondent refused to answer a material question it was explained to him that such was contrary to the spirit of the Agreement, and such refusals were noted by the Board in making its report to NRA.

Footnote (continued)
The Board then decided by majority vote whether or not the complaint was valid. Where no violation was found the case was dropped. Where a violation was found, the employer was given an opportunity to rectify conditions. In either event, whether the complaint was adjusted or rejected, the respondent was given a Letter of Compliance which he might display near his insignia.

Where the respondent refused to adjust, the Board forwarded a report to NRA through the Secretary of the District Recovery Board, signed by all members, with their votes indicated, which included: the original complaint; a signed certificate by the legal member or other representative that the procedure outlined had been followed; a summary of the employer's statement; any additional pertinent facts; a recommendation for further action.

Progress reports were made from time to time to the Secretary of the District Recovery Board.

All complaints had to be in writing and signed by the complaining party. The Boards' jurisdiction extended to all PRA complaints against employers in their particular communities.

Two cardial rules of procedure were laid down: (1) both the fact that a complaint had been filed against an employer and the complainant's identity were to be kept confidential; (2) The Board was not an enforcement agency in any sense of the word, but was to gain compliance through education, explanation, and conciliation.

The Board had no general investigatory or inquisitorial functions, but to the contrary, was instructed not to use its representatives as investigating agents (p. 10).

Second offenders, where the action appeared to be wilful, were to be given no opportunity to adjust complaints.

(Note the similarity between the above described procedure and that employed by District Compliance Offices under the October 19 Regulations and by the State Offices under Bulletin 7, which is discussed in the body of the text that follows. This is made especially interesting by the following quotation from Bulletin 5, p. 4, which brings [illegible] he differing bases of the PRA and the codes, "-------th[illegible]ent's Reemployment Agreement is not a statute to be [illegible] by law but a voluntary individual covenant.")

petitors or other interested parties charging the particular respondent with committing a violation of a code or the FRA.

Under the procedure created, complaints of code violations had to be in writing, preferably on the officially prescribed form. (*) The instructions also stated that where possible, complaints should be sworn to before a notary or witnessed by at least one person familiar with the facts. However, this last was never followed extensively by the field offices because, for the most part, complaining employees were financially unable to pay notaries' fees and fear of their identities as complainants becoming known precluded the practicability of requiring witnesses. Likewise, many complainants were relatively uneducated and unable to cope with any technical requirements attached to the filing of complaints.

The District Offices were given jurisdiction over all complaints charging violations of approved codes by employers situated within their respective districts, (**) except where a code authority for the particular industry had been organized and authorized to handle the type of complaint filed.

When a complaint was received, it was docketed and examined by the Legal Adviser to determine whether or not the facts alleged therein, if true, were sufficient to state a violation. If the finding was in the negative the complaint was rejected and closed and the complainant so notified, together with the reasons for holding it invalid. (***) However, if the complaint was determined to state a prima facie case of violation, it was accepted and put through a regular procedure, described below.

It is important to note here the emphasis which was placed on legal sufficiency, form, and a set procedure, since the tendency of the field was to interpret these instructions literally. This emphasis on form was not without its purpose. The field offices were very much understaffed, and even the limited personnel was largely untrained for the work, so that some device was necessary to conserve compliance facilities by eliminating groundless and crank complaints. However, the placing of formal requirements proved to be a two-edged sword, for many really bad cases of non-compliance went untouched, only to bob up and plague the field offices at a later date.

(*) "Regulations for the Adjustment" etc. (October 19, 1933), p. 1.
(**) "Regulations for the Adjustment", etc., p. 1.
(***)"Regulations for the Adjustment", etc., p. 1.

An illustration of this was the manner of treatment of anonymous complaints. As pointed out in the footnote beginning on the first page of this chapter, the instructions to Local Compliance Boards handling the PRA required all complaints to be in writing and signed by the complainant. (*) This was changed in the instructions to District Compliance Directors to the rule that anonymous complaints might be acted on at the discretion of the Directors. (**) This resulted in the majority of such complaints being rejected, however, since the District Offices were looking for every possible way to lighten their own loads so that they could operate with some degree of efficiency. Although this treatment of anonymous complaints was dictated by immediate necessity, it later was proved to have been an undersirable method of approach. While logic concluded that if a complaint were well-grounded and made in good faith the complainant would sign his name, experience showed that many complaints were filed anonymously and many violations went unreported because the employees were afraid that the signing of their names on a complaint form meant probable discharge, or at least discrimination on the part of the employer. (***)

However, before going further into the gradual modification of the complaints basis of compliance activities, it is well to examine into the procedure created for the handling of code complaints once they had been accepted by the Legal Advisers.

It was originally provided that a complaint valid on its face should take one of two courses of action. If the Code Authority had been authorized to handle the particular type of complaint, a copy was referred to the authorized agency for adjustment within a specified time and the parties were so notified. (****) Where the Code Authority made a report to the District Compliance Director within the time limit, from which it appeared a satisfactory adjustment of the complaint had been made, the case was filed as adjusted. (*****)

(*) Office Manual, V-B-22, Section 1, Paragraph 2.

(**) "Regulations for the Adjustment" etc., p. 1.

(***) This fact was recognized, at least in part, at an early date, Liaison Circular 64 (October 6, 1933), paragraph 3, quoted a memorandum purportedly from the Compliance Division relative to instructions to Local Compliance Boards, which reads as follows: "The instructions in Bulletin No. 5 state that 'all complaints should be in writing and signed by the person making the complaint.' This is intended to protect the Compliance Board from following up malicious and annonymous complaints.

"If a Board wishes to receive anonymous complaints, it may do so ----."

(****) "Regulations for the Adjustment" etc., p. 1.

(*****) "Regulations for the Adjustment" etc., p. 1.

If within the time specified the case was not reported back as adjusted, the District Compliance Director proceeded to handle the complaint as though no Code Authority had been authorized to handle that particular type of complaint.

If the District Compliance Director had not been specifically instructed to refer the particular type of complaint to a Code Authority, it was handled in the following manner. (*) A letter of acknowledgment was sent the complainant, and the respondent was informed of the nature of the complaint, was furnished a copy of the code and an explanation of pertinent provisions, and was invited to state his side of the case. (**)

In the event the first letter to the respondent failed to evoke a response, or the reply was unsatisfactory, a second letter was sent inviting the employer to the office for a personal interview. If this method proved fruitless of adjustment, a form letter was sent informing the respondent that the case would be sent to the National Compliance Director if satisfactory evidence of compliance was not furnished in a stated number of days. Another letter was then sent notifying the respondent the case was being forwarded to Washington. After allowing sufficient time for a reply, the file was forwarded to the National Compliance Director for further action. (***)

District Compliance Directors were instructed to treat all complaints confidentially, because of the dander of the complainant's discharge on one hand, and the disastrous effect of adverse public opinion on a respondent's business on the other hand. (****)

Likewise, it was emphasized that the field officers were not enforcement agents but were to attain compliance through education, explanation and adjustment. (*****) The enforcement arms of the Government were specified in the Act as being the Department of Justice and the Federal Trade Commission, (******) and cases went to these two agencies through the National Compliance Director and the National Compliance Board. (*******)

(*) Form letters covering both courses of action were attached to these regulations.
(**) "Regulations for the Adjustment" etc., pp. 2, 3.
(***) "Regulations for the Adjustment" etc., pp. 2, 3.
(****) "Regulations for the Adjustment" etc., p. 3.
(*****) "Regulations for the Adjustment" etc., p. 3. Liaison Circular 75, p. 2.
(******) NIRA, Title I, section 3, paragraphs (b), (c), and (f).
(*******) Office Order No. 40.

The treatment of second offenders was not mentioned in the "Regulations", but in Liaison Circular 75 the District Compliance Directors were told only to substantiate the facts in these cases, where they felt the violations were wilful, and to give no opportunity to the respondent to adjust. (*)

This procedure contained no place for field interviews or real investigation. Nor were the field offices equipped to experiment in this direction. It is little wonder, therefore, that small improvement, except in isolated offices, was made in compliance procedure during the early days.

On January 22, 1934 there was issued NRA Bulletin No. 7, "Manual for the Adjustment of Complaints by State Directors and Code Authorities", which modified and expanded the previous procedure. About a week prior to the issuance of this "Manual" the State Directors were appointed and the Compliance Division's field organization was changed from a system of twenty-six District Offices, headed by the former District Managers of the Bureau of Foreign and Domestic Commerce, to one of forty-eight, and later fifty-three, State Offices headed by the new State NRA Compliance Directors.

The new procedure was broader, and contemplated the use of Field Adjusters, but still remained more or less inflexible and contained several objectionable features from the standpoint of practical application.

The underlying theory of all compliance procedure was the speedy elimination, by adjustment, of such non-compliance as was due to misunderstanding, and the prompt prosecution of all cases of wilful non-compliance. (**) Bearing this in mind it is interesting to note the changes brought about in Bulletin 7.

A single procedure was established ostensibly for all types of cases. However, the organization of the office with separate Compliance Offices for labor and trade practice, and the application of the idea of industrial self-government (***) chiefly to trade practice cases, may be said to have split up this single system in reality, into two separate procedures which over-lapped to a certain degree in complaints arising under individual codes.

(*) Liaison Circular 75, p. 2.

(**) NRA Bulletin 7, p. 7.

(***) Bulletin 7, p. 3 stated the purpose of the Compliance Division to be to fill in the gaps of industrial self-government, which was the ultimate aim to be accomplished. Thus (Continuing on pp. 5 and 6) NRA would "act for an Industry while the Industry is organizing to handle compliance problems for itself; or where an Industry in a certain territory has no Industrial Adjustment Agencies; or where an Industry, though organized to handle trade practice complaints, has no machinery to handle labor complaints; or where the Industry fails to carry through in its efforts to adjust a complaint; or where for any other reason it is necessary for the governmental rather than the industrial system to act."

This brings us to a consideration of the definition of the terms employed to prescribe the limits of each division of procedure. Complaints which dealt with violations of the labor provisions of the codes, i.e. the regulations concerning minimum wages, maximum hours, homework, and other terms and conditions of employment, including the prohibition of child labor, were designated as "labor complaints". Conversely, "trade practice complaints" were defined to include those cases involving violations of all other provisions, such as, production control, cost determination, regulation of trade terms, and other prescribed rules of conduct of members of industry among themselves. This last class included provisions for the administration of the codes by the particular industries. (*)

The definition of a third class of complaints, "labor disputes", is not germane to this discussion because they were early removed from the jurisdiction of NRA and placed under the National Labor Board or other special agencies. (**)

Under Bulletin 7, complaints had to be in writing, preferably on the NRA complaint form, but were not required to be notarized or witnessed. Anonymous complaints might be acted upon at the discretion of the State Director. (***)

Complaints were routed, according to their nature, to the Labor Compliance and Trade Practice Compliance Officers, respectively. At this point comes an essential departure from the original procedure. A competitor making a <u>labor</u> complaint against another employer might elect to have it treated as a <u>trade practice</u> complaint, and it was thereafter to go through the procedure for the latter type of case. It would thus be referred to a Code Authority authorized to handle trade practice, although not authorized to handle labor violations.(****)

If a Code Authority (*****) existed in the Industry and was authorized to handle the particular type of complaint <u>in the first instance</u>, the original complaint was referred to it without further

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(*) Bulletin 7, p. 5.

(**) Bulletin 7, p. 12.

(***) Bulletin 7, p. 11.

(****) Bulletin 7, p. 12.

(*****) The term "Code Authority" is used herein in order not to confuse the reader, although the correct title perhaps should be, "Industrial Adjustment Agency", which is the name given by Bulletin 7, p. 4 to an agency of an industry for obtaining compliance.

action by the State Office, unless it appeared from the substance of the complaint that it was purposely filed with the State Director. (*) A complainant always had the right to file a complaint with the NRA, rather than with an authorized Code Authority, in order to protect his or the public interest.

This procedure was much more characteristic of trade practice cases than of labor complaints. While after June, 1934 complaints referred to Code Authorities in the first instance were not docketed by the State Offices and hence no complete figures on the number of cases so referred are available, general experience showed that the preponderant majority of such complaints dealt with trade practice violations. In fact 493 Code Authorities were authorized to handle trade practice complaints during the life of the codes, while but 21 were given jurisdiction over labor complaints.

Complaints which came under the initial jurisdiction of the State Directors were examined for legal sufficiency, all doubtful questions being referred to the Legal Advisers. This examination did not differ from that provided in the original procedure, except that where a complaint indicated a code provision might have been violated, but failed to state sufficient facts, instead of being rejected the complainant was requested to furnish the necessary additional information. (**)

Where a Code Authority had been authorized to handle complaints on reference (usually labor), a digest of the allegations was referred to that body for adjustment within a stipulated period not to exceed two weeks, and the parties were so notified. If no report was made within the time specified a Progress Report was requested by return mail. If no satisfactory reply was then received, the State Director advised the Code Authority he would proceed to adjust the case on the assumption it had been unable to do so, unless immediate work was received to the contrary. Sufficient time for a reply was then allowed to elapse before action was actually started. If the complaint was reported back to the State Director as unadjusted, it was then put through a second course of procedure described below. On the other hand, if the Code Authority reported the case as adjusted, the State Office closed the case and so notified the complainant. (***)

The difficulty with this arrangement was that, since the Code Authorities were not under the full supervision and control of the field offices or even the Compliance Division in Washington, their policies of adjustment and procedure naturally were different. An

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(*) Bulletin 7, p. 12.

(**) Bulletin No. 7, p. 13.

(***) Bulletin 7, pp. 13 - 14.

alarming number of cases had to be re-handled after being reported back to the State Offices as adjusted. The purpose of the plan was probably to train the Code Authorities to be in a position to handle labor complaints in the first instance. (*)

The bulk of complaints filed in State Offices, and not immediately transmitted in toto to another agency, were handled by them without reference to Code Authorities. The following procedure relating to cases handled directly by State Offices, (**) therefore, will form the center of the remainder of this discussion on compliance procedure in the field.

The initial steps were virtually the same as provided in the original "Regulations" issued to District Compliance Directors on October 19, 1933. The respondent was informed of the nature of the complaint; the applicable part of the code was explained to him; he was asked for a statement of his position; and he was furnished with a copy of the code and a printed statement entitled, "Information for Persons Charged with Violation of an NRA Code," which set forth in simple language a brief outline of the procedure and the respondent's rights. If no reply was received in a reasonable time, a duplicate letter with enclosures was sent to the respondent by registered mail.

If the respondent admitted the violation but furnished satisfactory evidence of present compliance, willingness to comply in the future, and equitable restitution for past violations, the case was considered as adjusted and the parties so notified.

In case the respondent denied the facts, or admitted the facts and denied they constituted a violation, or failed to satisfy the Compliance Officer that an adjustment had been made, he was invited to be present at an office interview. If this method were not feasible, or if it failed to produce an adjustment, a Field Adjuster was sometimes sent to visit the respondent. This tardy use of the Field Adjuster indicates that field interviews were considered as of only secondary importance.

If the Field Adjuster's report showed no violation, the complainant was notified. If no further word was received from the complainant within a reasonable time (usually ten days to two weeks) the case was filed as adjusted. Where the Field Adjuster's report showed a willingness on the part of the respondent to comply and to make equitable restitution, the case was closed on receipt of evidence that that had been done.

(*) Bulletin 7, p. 14. "The State Director will keep a record of all complaints sent to Industrial Adjustment Agencies on reference and when he believes that any such Agency is qualified to handle a particular type of complaint in the first instance he will make such a recommendation to the National Compliance Director."

(**) The procedure described in the text was contained in Bulletin 7, pp. 14 - 18, inclusive.

Unadjusted cases of violations were forwarded to the National Compliance Director in the same manner as specified in the original procedure under the "Regulations for the Adjustment by District Compliance Directors," etc.

Bulletin 7 further provided that in case either the complainant or respondent was dissatisfied with the decision of the Compliance Officer, he should be afforded an interview with the State Director. If he was still dissatisfied, he had the right to appeal the case to the State Adjustment Board, which made its findings in the form of a recommendation to the State Director.

All complaints had to be treated confidentially as to both parties. (*) In the event an interpretation of the code was needed to proceed with a case, a request for a ruling had to be made through the Washington office to the proper Industry Division.(**) There was no power to continue action on the complaint until such interpretation was issued, sometimes months later.

During the late spring of 1934, coincidentally with the development of adjustment policies and staff organization, some of the field offices began to cast about for and to find improvements in procedure, which finally came to be passed on to the remainder of the field through the medium of Field Letter 125 and the travelling Field Representatives.

Before passing on to a discussion of these departures from the procedure, there should be noted two shortcuts which were provided, in order to take care of unusual cases requiring speedy action.

Bulletin 7 provided that whenever the State Director was convinced that a complaint conclusively set forth a violation, which the respondent showed no disposition to correct or adjust, then the State Director might immediately refer the entire record to the National Compliance Director without following the regular procedure.(***) This procedure applied only to unusual cases and did not vary the regular procedure as to the great bulk of the complaints received. Moreover, this provision for a shortcut erroneously presupposed an adequate investigating staff to immediately prepare the evidence for

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(*) Bulletin 7, p. 7.

(**) Bulletin 7, p. 8.

(***) Bulletin 7, p. 17.

the file, since obviously Bulletin 7 could not mean the complaint was to be referred to the National Compliance Director without any investigation. The lack of a clear policy of action in Washington, the mechanical difficulties of advancing a complaint to the stage of Blue Eagle removal and reference to the enforcement agencies, and the even greater probability of the case being promptly and effectively litigated, all combined to complete the task of turning this well-meant short-cut of procedure into a mere paper plan.

Of more value was Administrative Order No. X-14, issued April 6, 1934, which amended the provision in Bulletin 7 just mentioned, by allowing the State Directors to refer cases direct to United States Attorneys, rather than to the National Compliance Director. (*) At the time of the reference, the respondent was notified and a transcript in triplicate was sent to the Contol Section of the Compliance Division in Washington.

This new power was exercised in varying degrees by different offices, but was generally found to be of practical use. It eliminated to some extent the difficulties of mechanical delay in Washington and the absence of a definite plan of action. It was the first major step in the decentralization of the Compliance Division, and therefore of prime importance.

Incidental to the improvement in procedure as to unadjusted cases, Administrative Order N. X-14 had the practical aspect of placing the State Offices in direct contact with the various District Attorneys. Through this medium the field added to its experience in the proper investigation and preparation of cases intended for action by the Department of Justice. But, through these contacts also there was brought home to the State Office personnel with increasing force the constitutional weaknesses and the legal difficulties involved in the whole compliance program.

Moreover, the amended procedure of Administrative Order No. X-14, by its very terms, was limited to a small proportion of the cases handled. The vast majority was still subject to the regular procedure laid down in Bulletin 7.

2. STATE ADJUSTMENT BOARDS

The National Industrial Recovery Act authorized the President "to establish such agencies, to accept and utilize such voluntary and uncompensated services" as he might deem necessary. (**) Under this

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(*) This constituted Amendment 1 to Bulletin 7. Order X-14 also contained Amendment 2, granting a similar power to code authorities, and Amendment 3, providing that cases to be referred to the United States Attorneys under X-14 might be first submitted to the State Adjustment Boards for advice and recommendations. The power granted State Directors by this order was to all intents and purposes revoked after the creation of the Regional Office system by Field Letter No. 196 (February 2, 1935).

(**) National Industrial Recovery Act, Title I, Section 3 (a).

authorization, the Local Compliance Boards whose services were voluntary and uncompensated were utilized in PRA compliance work.

After the State Offices were established, it was announced that a State Adjustment Board would be established in each State as a part of the permanent compliance system. These Boards were to act in an advisory capacity to the State Directors, to hear cases referred to them by the State Directors and appeals by parties dissatisfied with the decisions of a State Director or his staff. (*) The members of these Boards received no compensation for their services, and their staffs were drawn on a part time basis from the personnel of the State Compliance Offices.

Their number and location was to depend on the volume of cases submitted and on local needs. Inasmuch as these Boards were to serve as a forum where those dissatisfied with the State Officers' decisions might be heard, it was imperative that they be truly impartial. Therefore, they were composed of equal representation of employers and workers with an impartial chairman to represent the public, agreed upon by the other members and appointed by the President. (**)

The majority of the cases referred to the Adjustment Boards concerned violations of the wage and hour provisions of the codes. They may be divided into the following general types.

1. Where the complainant or respondent was dissatisfied with the findings of the State Office.

2. Where the Field Office felt it was advisable to submit a case to the Board to solve a difficult factual situation or determine a method of arbitration.

3. Where the State Director felt that the psychological effect of a hearing before an impartial Board would facilitate adjustment.

4. Where it was felt that the amount of restitution due might be reduced because of peculiar conditions or because of the financial inability of the respondent to pay back wages in full.

5. Where it was felt that a hearing before the Board would strengthen the case for its later reference to the appropriate Compliance Council or United States Attorney.

(*) Bulletin No. 7, pp. 15-16.

(**) Bulletin No. 7, p. 16.

Field Letter No. 125 required that all cases adjusted on a basis of less than full restitution should receive the approval of the State Adjustment Board before the adjustment was made. (*) Field Letter No. 125 also required that all cases which could not be adjusted in accordance with the standards set forth in that Field Letter as well as cases in which a wide conflict in the statement of facts existed should be referred to the State Adjustment Boards.

Field Letter No. 125 also laid down the procedure to be followed in hearings before the State Adjustment Boards. Arrangements were made for cases to be heard according to a fixed schedule. Both respondents and complainants were invited to be present and bring their witnesses, except where it was deemed expedient to hear the parties at different times. A brief outline of the case was prepared and given to each member of the Board prior to the hearing. In addition to the factual outline, the Field Adjuster or Labor Compliance Officer often appeared before the Board to give additional relevant information. After the Board had become acquainted with the general facts and issues involved in the case, the parties and their witnesses were heard. Some Boards heard each party and each witness separately and some allowed the witnesses to testify in each other's presence, but the majority followed both courses depending upon the conditions arising in each particular case. There was, of course, no authority for the Board to require testimony under oath and no formal rules of evidence were followed. The decisions of the Board were in the nature of advice to the State Director. However, their recommendations were nearly always followed.

(*) This requirement was removed by field letter No. 194

(*) This requirement was removed by field letter No. 194.

B. MASS COMPLIANCE.

As experience grew in the handling of cases, gradual changes were made in the procedure for action on complaints. As these changes became established in practice they were usually made known to the field as a whole in the form of instructions in Field Letters sent out by the Compliance Division to the field offices.

Thus, in Field Letter No. 48 (January 24, 1934) experience with the handling of anonymous complaints reflected itself in the following clarification of Bulletin 7:

> "Anonymous complaints will be subjected to a more searching analysis before they are acted upon than will signed complaints. If, however, after close examination an anonymous complaint appears on its face to be genuine and to state a code violation it should be handled as any other complaint." (*)

The field staff soon learned the value of thoroughly investigating and fully adjusting a case. Adjustment depended to a large measure on investigation. If the activity of the office was restricted to a single employee who had filed a complaint, there were likely to be later complaints by other employees, which would necessitate the retracing of steps.

Accordingly, it became the practice, as the use of Field Adjusters increased, to investigate the entire payroll, so as to discover all the violations which might exist. The various offices grew to require a complete adjustment of back wages due all employees. This widened scope of investigation and adjustment helped to alleviate some of the evils of the complaints system by removing the necessity for more than one investigation, except in particularly difficult cases and where the employers were persistent violators, and by furnishing an effective medium for educating the employers to bring their operations into continued compliance. This new procedure was also characterized by the placing of more emphasis on the use of Field Adjusters.

It was also found necessary to make investigations on what appeared to be bona fide rumors and strong suspicions. This was brought about by the strong insistence of respondents that their competitors be made to conform also and by the realization that a permanent compliance program must be based on a thorough educational program among members of industry and the protection of the complying business men from his competitor who violated the code. This was the germ of a new idea of operation known as "mass compliance", (**) that is, the direction of compliance activities against

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(*) Field Letter, No. 48, p. 1.

(**) While mass compliance is spoken of here as a new idea, it found ample precedent inthe administrative efforts of the State Labor Departments, many of which used the inspection system in enforcing labor laws, U.S. Dept. of Labor, Women's Bureau Bulletin 61, pp. 288-289, 307-308) and in the Trade Practice Conference Procedure in vogue with the Federal Trade Commission, (Annual Report of Federal Trade Commission, 1932, pp. 51-54).

a group as a self-initiated project, rather than a single proceeding against one employer on the basis of a complaint filed by some third party.

In addition to mass compliance activities, which were usually in the form of a survey, another variation from the complaints plan was observable in isolated investigation, not connected with a survey or planned project, and originating without the formal filing of complaints.

Thus, there might come to the attention of the field office a rumor that a certain employer was in violation, or the office might feel strongly from its general knowledge of industry conditions that a condition of non-compliance existed. In such cases, the appropriate Compliance Officer caused investigations to be made by Field Adjusters, even though no formal complaint had ever been filed. The procedure followed in adjusting violations found by these methods was the same as that used where action was the result of complaints being filed.

An interesting sidelight on the decreasing emphasis on the strict complaints procedure at this juncture is found in instructions to the field regarding so-called "multiple complaints." (*) This term was defined to include situations where more than one complaint was filed against the same employer charging the same general violation, i. e. failure to pay the minimum wage to pieceworkers, etc. Such multiple complaints", under the instructions, were to be bound together in one file and docketed as a single case.

Immediately following this instruction on "multiple complaints", the experience of the field with the complaints plan of procedure, and the modifications of the system mentioned above, were crystallized and a definite break was made away from the strict complaints basis by the issuance of Field Letter 125. As has been mentioned before, Field Letter 125 undertook to establish a complete, new framework for compliance activities.

The changed procedure thus created recognized the need to discard the complaints basis, and recommended strongly the use of office complaints to initiate activities. (**) These office complaints differed from the earlier conception of complaints, in that the latter were filed by third persons presumably having a first-hand knowledge of the violations alleged, while the former class of complaints originated with members of the compliance staff and were based on hearsay, rumors and suspicion. While the use of office complaints was manifestly open to abuse by over-zealous members of the staff, sufficient safeguard existed in the practical limitations of the investigational facilities of the various offices.

Among the occasions where the use of office complaints was suggested were: where an employee reported a violation but refused to sign a complaint for fear of discharge; where a complaint had been rejected but the office considered the situation alleged should be investigated; where the

(*) Field Letter 119 (June 6, 1934), p. 3.

(**) Field Letter 125, pp. 9-10

complaint having been substantiated the adjuster believed that violations probably existed in other establishments under the same management; where repeated rumors existed as to violations in an establishment, industry, or locality; where an employer seeking information indicated the existence of a violation.

The grafting of this new type of complaint on the old procedure served as sufficient indorsement of mass compliance. The new theory of operation continued to expand with practice and the number of its adherents grew larger, so that by the time the Regional Offices began to function in January, 1935, its use as a method of approach to the solution of compliance problems had attained fairly wide popularity and was well-established among the various field offices.

Closely allied with this departure from the complaints basis was a growing emphasis on the use of Field Adjusters. The value of this type of personnel was recognized by the National Compliance Board as early as December 4, 1933. The minutes of the nineteenth meeting, held on that date, contain the following statement:

> "Mr. Posner once more raised the question of procedure where employees were discharged for entering complaints against their employers. Dr. Altmeyer (who was Second Assistant Secretary of Labor and at one time Chief of the Compliance Division) urged that field representatives were necessary for this type of work. He added that considerable tact and labor experience are necessary."

In May and early June, 1934, the Compliance Division began to appoint "Resident Field Adjusters", who were stationed at various strategic points outside the cities in which the State Officers were located. While these Resident Field Adjusters were attached to the various State Directors' staffs, it was contemplated that they should exercise semi-executive functions, in addition to the regular duties of Field Adjusters. (*) Thus they were generally given a comparitively free hand in the planning of their own compliance activities and in engaging in public relations work. Because of the physical distance between their official stations and the State Offices, there was necessarily a larger reliance on their individual discretion than in the case of ordinary Field Adjusters.

The significance of the appointment of Resident Field Adjusters in connection with the departure from the complaints basis of procedure is to be found in the following excerpt from Mr. Swope's letter of June 2, 1934 to State Directors on the subject:

> "Undoubtedly a resident Field Adjuster will hear many rumors of violation although no written complaint may have been filed. If the rumor appears to have substance the Field Adjuster should make an investigation even in the absence of a specified complaint. In only rare instances should the Field Adjuster attempt to adjust it by writing a letter ....

(*) Letter of June 2, 1934 from John Swope, Chief of Field Branch to all State Compliance Directors, pp. 4-5, "Filing and Handling of Complaints by Resident Field Adjusters."

"The (Resident) Field Adjuster must spend the greater portion of his time on outside work, contacting the employers and investigating not only filed complaints, but also rumors of violation which may come to him." (*)

This statement was followed eleven days later by the issuance of Field Letter No. 125 and Supplementary Memorandum No. 1 to Bulletin 7, which latter, in modifying the earlier Manual for State Directors, said:

"The State Director must use his own judgment in determining the procedure which willbe most effective and expeditious in a particular case. Bulletin 7 does not lay down a set procedure that must be rigidly observed in all cases. For example, instead of carrying on preliminary correspondence, it may be better to send an adjuster to interview the respondent or to ask the respondent to appear at the office of the State Director." (**)

Field Letter No. 125 stressed the value of office and field interviews in adjustment work. It further suggested the elimination of a formal notice to the respondent giving the substance of the complaint, and the substitution therefor of a letter containing merely a brief invitation to call at the Compliance Office. It likewise recommended the practice of dispensing with all preliminary correspondence, and making the initial contact with the respondent by means of a field interview. (***) In this connection Field Letter No. 125 said,

"The Compliance Officer is under no obligation to establish the fact that a complaint has been filed. For the protection of the complainant it is advisable in many instances not to inform the employer that a specific complaint has been filed against him."

Field Letter No. 125 also provided a guide for the thoroughness of investigation. A detailed account of the proper contents of case files was given, and a questionnaire form for interviews with employers, as well as a form for abstracting payrolls, were included. (****)

(*) Letter of June 2, 1934 from John Swope, Chief of Field Branch to to all State Compliance Directors, PP. 4-5, "Filing and Handling of Complaints by Resident Field Adjusters."

(**) "Supplementary Memorandum Number One Relative to Adjustment of Complaints"., p. 1 (underlining supplied). This was clearly an attempt to rationalize and to reconcile this memorandum, Field Letter No. 125 (both issued by the Compliance Division), and the actions of various field officials with the procedure created by the Administrator in Bulletin 7.

(***) Field Letter No. 125, p. 11

(****) Field Letter No. 125, pp. 19-20, 24, 27.

Thus, it is seen that, beginning with Field Letter No. 135, June 15, 1934 and in the period of development that followed, there were marked departures from the cumbersome, inflexible, and largely ineffective procedure established by the Regulations of October 19, 1933 issued to District Compliance Directors and by NRA Bulletin 7, covering State Directors and Code Authorities. Under the old procedure all compliance activity was supposed to be predicated on complaints, which had to fulfill certain technical requirements, and almost the entire burden of proof, as well as the initiative, was thrown on the complaining employees and competitors.

The new procedure was developed out of the necessities of experience, influenced greatly by the powerful psychological factor of a new reporting system whereby field offices felt that their efficiency, value and reputations were constantly being judged by the number of violations discovered and adjusted and the amount of back wages collected. Less and less stress was laid on the filing of complaints and the important place of the complainant in procedure, except as one source of information; but the use of complaints as the basis of proceedings was never entirely eliminated. However, it should be noted in illustration of the final relative unimportance of complaints that on May 21, 1935 in a letter to all Regional Directors the Chief of the Compliance Division placed a virtual statute of limitations on the filing of complaints, leaving each office to exercise its own discretion, according to certain standards in determining whether or not the complainant had been guilty of laches in failing to report the violation promptly. (*)

One more modification of Bulletin 7 should be mentioned as having a noticeable effect on the movement to discard the complaints basis. By Administrative Order the practice of sending complaints to Code Authorities "on reference" for adjustment was abolished as of June 15, 1934 (**)

The order further provided that Code Authorities which had been authorized to handle particular types of complaints "in the first instance" would continue to operate in the same manner under the designation "officially authorized". This was important because the Code Authorities which had been authorized to handle labor complaints were mainly organized to operate on an inspection or mass compliance basis and therefore indirectly additional impetus was given to the movement away from a strict complaints system. (***)

(*) This letter stated that the offices should be guided by the following general rules of thumb; ordinarily, a complainant still employed ought to report the violation within 60 days after it had occurred; and employee who had been discharged or dismissed should file complaint within 30 days thereafter.

(**) Administrative Order X-29 (May 12, 1934).

(***) Section A & B of Chapter IV were taken almost wholly from the History of the Compliance Divisions to be found in NRA files.

C. ADJUSTMENT AND RESTITUTION

1. Basis of Administration for Compliance.

The National Industrial Recovery Act provided for the establishment by the President of administrative agencies to effectuate the policy of the Act. (*) It further provided that the President should fix the duties and responsibilities of, and that he might delegate any of his functions under the Act to, such officials as he might appoint. (**)

The power to promulgate rules and regulations was also given to the President. (***)

It is evident that an extensive governmental agency or bureau to administer the Act was contemplated.

The experience of other governmental agencies charged with the duty of administering various laws had demonstrated that public opinion was a vital factor in the success or failure of such laws. That is to say, that those laws which had the support of the general public and the groups directly affected by them had been successfully administered.(****) On the other hand, those laws which lacked such support had been failures. (*****)

(*) National Industrial Recovery Act, Section 2 (a)
To effectuate the policy of this title, the President is hereby authorized to establish such agencies, to accept and utilize such voluntary and uncompensated services, to appoint, without regard to the provisions of the civil service laws, such officers and employees, and to utilize such Federal officers and employees, and, with the consent of the State, such State, and Local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended to fix the compensation of any officers and employees so appointed.

(**) National Industrial Recovery Act, Section 2 (b)
The President may delegate any of his functions and powers under this title to such officers, agents, and employees as he may designate or appoint, and may establish an industrial planning and research agency to aid in carrying out his functions under this title.

(***) National Industrial Recovery Act, Section 10 (a)
The President is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this title, and fees for licenses and for filing codes of fair competition and agreements, and any violation of any such rule or regulation shall be punishable by fine of not to exceed $500, or imprisonment for not to exceed six months, or both.

(****) Interstate Commerce Act

(*****) Prohibition

This fact was recognized by NRA at least in the public declarations of its officials. It was undoubtedly the reason for the adoption of the adjustment method of handling complaints of code violations. (*)

2. The Adjustment Method.

The adjustment method served two purposes; first, the code violator was educated regarding his responsibilities under the code, and second, the violation was supposedly corrected and the violator thereafter complied with the code.

Funk & Wagnalls Standard Dictionary defines the term 'adjust' as meaning, "to arrange in order"; "regulate"; "settle"; etc." NRA's first adjustment efforts were aimed at regulating the practices of the industry member so that they conformed with code standards. Later adjustments also involved settlements for past violations.

At the beginning of NRA's compliance efforts, the adjustment of code violation cases looked towards the future and stress was laid on efforts to build up future voluntary compliance on the part of the violator.(**)

(*) Release No. 1847, November 22, 1933. Statement by the Administrator. "The term 'administration for compliance' is intended to include: (a) the instruction and education of those subject to the code as to their responsibilities thereunder so as to anticipate and avoid complaints of non-compliance; (b) the adjustment of complaints of non-compliance by education, fair findings of facts and the pressure of opinion within the Industry; (c) the adjustment of complaints by arbitration, conciliation and mediation."

Statement by National Compliance Director, December 5, 1933. "Like the temporary arrangement this plan (permanent plan for adjustment of complaints) provides for a regional system to aid in the adjustment of complaints of violations of approved codes. There is no provision of enforcement by these agencies. The enforcement agencies of government under the National Industrial Recovery Act are the Attorney General and the Federal Trade Commission. Like the temporary arrangement, it is based upon the hypothesis that the great majority of complaints are due to misunderstandings which can be adjusted by education and information, by correspondence and conference. It is also based upon the hypothesis that to effect this, there must be well informed agents in the field to adjust the case where it arises and to make fair findings of fact."

(**) NRA Bulletin No. 7, Page 7, H. "The system outlined by this manual is designed to insure the speedy elimination, by adjustment, of such non-compliance as is due to misunderstanding, and the prompt prosecution of all cases of wilful non-compliance. Through the various Industrial Adjustment Agencies and the State Directors, all persons against whom complaints have been lodged will be given ample opportunity to cooperate and to make restitution for any violation due to misunderstanding and ignorance."

The approach was conciliatory and little attention was given to the penal features of the law and the rules and regulations thereunder. In fact, no agency to handle criminal or injunction proceedings under the law was set up within NRA until March 1934. (*) It is significant that even when a Litigation Division was set up it was not to proceed with indiscriminate prosecution or other court action on all cases coming to its attention but was to "present cases to the National Compliance Board for its recommendations on policy and disposition". Thus court action was intended merely to supplement the efforts of NRA to obtain voluntary compliance with the codes through educational methods.

The policy of adjusting cases by securing a promise of future compliance led industry members to assume that they could pursue a course of code violation and reap the benefits thereof until NRA found them out; then a promise to "be a good boy" in the future was sufficient to prevent any further action being taken. This situation gave rise to the policy of requiring restitution before a code violation case was closed as adjusted.

3. Restitution

Restitution contemplated a settlement or indemnification for damages occurring because of a code violation. The requirement of restitution was based on the theory that a code violation did injury to other members of the industry involved or to the employees of the violator (in labor cases) or both and that a code violator should be required to rectify such damages in addition to regulating his future practices to conform with code standards.

No approved form of restitution in trade practice violation cases was ever devised, in fact it was found that in most cases it could not be determined who the injured parties were.

In labor cases the problem was much simpler and restitution was taken to mean the payment of all back wages due, so that the employees of the violator would receive in the end, code wages for all work performed. As in trade practice cases, this method did not, of course, indemnify the industry, or rather the other members thereof, for any damage they may have sustained. Neither did it act as a sifficiently powerful deterrent to future violations since the violator was only required to pay what he would have paid had he complied with the code provisions in the past and no penalty was involved.

(*) Office Order No. 74, March 26, 1934.
"The Legal Division will organize a Litigation Division under a director of Litigation who will report to the General Counsel. This Division will: (a) Coordinate all NRA litigation; (b) Examine and review transcripts of all cases which have been turned over to the courts; (c) In the name of the Department of Justice prepare and carry through litigated cases; (d) Furnish information at any time on the exact status of litigation on any point; (e) Present cases to the National Compliance Board for its recommendations on policy of disposition."

Such a situation was extremely favorable to the chiseler. He paid less than code wages, worked his employees longer than code hours, thereby gaining a competitive advantage; if he was not caught he pocketed the results of such a policy and if he was caught he merely paid to his employees what was rightfully theirs in the first place; he had the use of the money in the interim and in the end had lost nothing.

As a partial remedy for this situation, NRA added to its restitution policy by requiring the payment of overtime rates (*) for all overtime worked in violation of code provisions and the payment of the expenses of an audit in cases requiring an extensive inspection of the books and records of a violator. (**) The overtime requirement provided damages to the employees of a violator and acted as a deterrent to future violations. The payment of the expense of an audit served to assist NRA and the Industrial Adjustment Agencies in determining the extent of a violation without undue expense to themselves and also acted as a deterrent to future violations.

These were the only measures which might be considered as being in the nature of a penalty for a past violation which NRA ever adopted.

4. Less Than Full Restitution Adjustments.

With one notable exception, NRA's restitution policy was strengthened as NRA's experience grew. The cases in which so-called "less than full restitution" adjustments occurred constituted this exception. Where a violator made a showing that the payment of the full amount due his employees as back wages under the code provisions would be ruinous to his business or was a financial impossibility, NRA frequently adjusted the case by permitting the payment of a compromise amount based on the violator's ability to pay. (***)

(*) Field Letter No. 125. "Working Hours in Excess of the Code Maximum. The employer should be required to pay for overtime at a higher rate than the rate paid for regular working hours. If an overtime rate is specified in the code, that rate will apply to overtime which is permitted by the code. For all overtime which is not permitted by the code an employer shall be required to pay a rate in excess of the overtime rate for permitted overtime."

(**) National Compliance Board minutes of February 9, 1934. "The National Compliance Board regards payment of cost of audit by respondent as a fair and necessary part of the restitution."

(***) No adjustment made by NRA affected the civil rights of the persons involved. NRA instructed Field Officers to make this fact clear to all parties concerned.

Field Letter No. 125. "It should be clearly understood that any civil rights an employee has as regards payment of back wages are not prejudiced by the State Adjustment's approval of less than 100 percent restitution."

While the authority to make such adjustments was centralized and hedged about by certain precautions, a substantial number were made. (*)

Such procedure carried the policy of conciliation and education to the extreme and we have the spectacle of an agency of the Federal Government failing to take steps to impose penalties for law violation because the violator pleads that his violation has not been sufficiently profitable for him to make good the damage he has done.

It must be remembered that what has been said in this section has to do only with adjusted cases. In those cases in which the violator refused the adjustment offered to him, the penalty of removal of the right to display the Blue Eagle and the possibility of prosecution applied.

5. Liquidated Damages.

Liquidated damages provisions requiring the payment of money damages in a specified manner in cases of code violations on the part of those persons agreeing to the provisions were written into a few codes. These provisions were to supplement NRA's adjustment methods.

6. Certificate of Compliance.

The promise of future compliance took the form of a written instrument which came to be know as a "certificate of compliance". (**)

FORM FOR CERTIFICATE OF COMPLIANCE TO BE USED IN ADJUSTMENT OF TRADE TRACTICE COMPLAINT

The following form should be used in adjusting a trade practice complaint by securing an agreement to comply in the future. While it may be varied to fit individual cases, it should be followed as closely as possible:

> Being desirous of cooperating with NRA in administering the Code of Fair Competition for the _____Industry, and of removing any ground of complaint of violation of the Code, I (we) _____, (Name of individual, partnership or corporation) certify and agree that I (we) am (are) now complying and will in the future comply with the letter and spirit of all the provisions of the Code of Fair Competition for the _____ Industry: and particularly with Article , Section , Paragraph _____ (supply numbers of Article, Section, Paragraph, Etc., respondent is found to have violated) with regard to _____, (Supply short summary of provision violated, such as : with regard to the filing of prices and other data with the Code Authority).

(*) The Compliance Division Statistical Section advises that the exact number of such adjustments is not known.

(**) Pages 249-11, 249-12, 249-13. Field Letter No. 193.

Signed:

This _____ day of _____. 19____

JOHN DOE, INC.

By:

_____ _____

Witness:

- - - - - - - - - - - - - - - - - - - -

All certificates of compliance should be addressed to the State Director unless special circumstances require another addressee, as the Code Authority or the Regional Director. The respondent's name and address, showing respondent is an individual, partnership or corporation, should appear at the top of the certificate.

If the respondent is an individual, the certificate should be signed by him, if a partnership, by one of the partners; and, if a corporation, by an officer of the company.

If the respondent has agreed to do certain specific things, such as file back reports with the Code Authority, a statement wherein respondend agrees to do these things should be added.

- -

FORM OF CERTIFICATE OF COMPLIANCE AND AGREEMENT TO MAKE RESTITUTION TO BE USED IN ADJUSTMENT OF LABOR COMPLAINTS

The following form should be used in adjusting a labor complaint by securing restitution and agreement to comply in the future. While it may be varied to fit individual cases, it should be followed as closely as possible.

Being desirous of cooperating with NRA in administering the Code of Fair Competition for the _____ Industry, and of removing any ground of complaint of violation of the Code, I (we) _____ (name of individual, partnership, or corporation), certify and agree to do the following things:

1. I (we) agree to make full restitution of all wages due my (our) employees under the said Code so that after such restitution they shall have received all the amounts due them as wages under the said Code. If any of them have worked overtime hours not permitted by the said Code, I (we) agree that the total rate

of pay for such overtime shall be one and one-half times the rate at which the respective employees were paid in the pay period in question (or one and one-half times the minimum rate under the Code if said minimum is greater than the actual rate of pay), and I (we) agree to make restitution for such overtime hours accordingly.

2. I (we) agree that the amounts of said restitution are to be determined by the State NRA Compliance Director for _____.

3. I (we) agree to make payment of said restitution at the time set and in the manner specified by the State Director.

4. So that the State Director may determine the amount of back wages due, I (we) agree to permit a full examination of my (our) books, accounts and records by the office of the State Director. If they are unsatisfactory I (we) agree to permit an examination of my (our) employees.

Alternate Paragraph 4

4. So that the State Director may determine the amount of back wages due, I (we) agree to permit a full examination of my (our) books, accounts and records by a public accountant to be selected by the State Director and employed by me (us). If they are unsatisfactory I (we) agree to permit an examination of my (our) employees. I (we) agree to pay all the cost and expenses of the examinations by the public accountant.

5. I (we) certify and agree that I (we) am (are) now complying and will in the future comply with the letter and spirit of the Code of Fair Competition for the _____ Industry.

Signed:

This _____ day of _____, 19___.

JOHN DOE, INC.

Witness: By: _____

_____

Any of the following paragraphs may be used in restitution agreements in appropriate cases:

In order to secure payment of the amounts due as restitution hereunder, I (we) agree to post a bond, certified check or other acceptable security in the amount of _____ with the State Director on or before _____, payable to such person or persons as the State Director may direct. Upon satisfactory proof to the State Director of payment of all amounts due as restitution it is understood that the bond, or other security posted, shall be immediately released.

I (we) agree to reinstate in their former positions and duties all my (our) employees designated by the Office of the State Director as having been discharged or demoted for submitting complaints of code violation.

I (we) agree to keep accurate and permanent records showing the hours worked by, and the wages paid to, my (our) employees.

NRA recognized that these certificates of compliance were merely promises to comply with the law which the maker of the instrument was already bound to do and that there was no consideration for such a promise other than the implied promise on the part of NRA not to prosecute if the violator signed such an instrument. The certificate, therefore, had no legal significance. NRA attempted to standardize these certificates and couch them in the simplest possible terms so that the violator would not be frightened by a mass of legal language into calling upon his attorney who would probably advise him that the certificate was not binding upon him. Despite the lack of a binding legal contract it was felt that if the violator signed a written promise to comply in the future, he would be more likely to abide by its terms than he would the terms of a mere verbal promise.

7. Consent Decrees of Injunction

In certain cases of code violation which had caused great damage within the particular industry or where because of the circumstances in the case, a bare promise of future compliance was thought insufficient, NRA required the violator to enter into an agreement to the effect that he would consent to the entry of an injunction in a court of competent jurisdiction barring him from future violations. While it cannot be said that an injunction against future violation of a code constituted restitution for a past violation, nevertheless it was thought of as a sort of penalty. Undoubtedly, the publicity attendant upon the entry of such an injunction and the continuing threat of prompt punishment in case it was disobeyed was in the nature of a penalty and certainly was effective as a deterrent to future violation.

8. Blue Eagle Removal Despite Adjustment.

NRA maintained that it could and would under certain circumstances, remove the Blue Eagle and refer a case to the Litigation Division for court action despite the fact that the violator made the adjustment

offered by NRA. (*)

In a few trade practice cases (less than a half dozen) the Blue Eagle was removed either for a limited time or outright (**) and the case referred to the Litigation Division even though the violator agreed to comply in the future, but there was not a single case in which the Blue Eagle was removed or litigation resorted to after restitution was made in a labor case. This is true even of second offenders.

It is obvious that the adjustment policy persistently followed a path intended to curry public favor and not to antagonize those members of industry who ran afoul of the law but rather to persuade them to voluntarily bring themselves into compliance with the codes. The much heralded and long awaited "crack down" never materialized.

(*) Field Letter No. 125. "In making adjustments of complaints of code violations it should always be borne in mind that such adjustments are made by NRA so that the employer may continue as a member in good standing in his industry, be privileged to display NRA insignia; use NRA labels in appropriate cases; and be qualified to bid on government contracts. It should be distinctly understood in all cases that such adjustments do not foreclose the possibility of action by the law enforcement agencies of the government.

"Adjustment of a complaint by an employer will naturally be taken into consideration by NRA in determining whether prosecution will be resorted to; but an adjustment should not be looked upon as an agreement by NRA not to refer the case for prosecution, and employers should be informed of this fact. This is particularly true in the case of a deliberate violation, and more particularly when the employer has attempted to conceal the violation. Repeated violations should be presumed to have been deliberate."

(**) In 194 cases after the Blue Eagle was removed, it was restored upon application of the violator based upon a showing that he had made an adjustment satisfactory to NRA.

D. INSIGNIA - LABELS

The purpose, method of distribution and other general aspects of NRA insignia and NRA code labels are treated in the studies "NRA insignia" and the "NRA Code Labels" respectively. This section has to do only with the methods by which insignia and labels were used as compliance weapons.

1. Insignia

Administrative Regulations of October 17, 1933, having to do with the Blue Eagle, provided that the Administrator might remove the right to display the Blue Eagle from any person who violated his code. (*) Administrative Order No. X-22, dated April 19, 1934, entitled "Blue Eagle Regulations", created an individual Blue Eagle for each code and also provided for its removal by the Administrator. (**) The possibility that the right of a code violator to display the Blue Eagle might be removed was present in the handling of every code violation case reported to any agency for handling complaints of code violation. The main purpose of every step taken by such an agency in handling a complaint, was to bring about a satisfactory adjustment of the case but simultaneously a record was built up to be used as a basis for future removal of the Blue Eagle if the case was not adjusted.

(*) Administrative Regulations, dated October 17, 1933. "When, in the judgment of the said Administrator or his duly authorized representatives, any person has failed to comply with said agreement or code, or when any person has improperly obtained said emblem, such person shall surrender said emblem on demand of the said Administrator or his duly authorized representative, and shall not thereafter display or use the same without the written permission of the said Administrator."

(**) Administrative Order No. X-22, "Blue Eagle Regulations"---

1. An individual Blue Eagle, property of the United States Government, is hereby created for each trade or industry under an approved Code of Fair Competition.
2. Subject to the penalties of Section 1 (a) of an orders and regulations under said Act, no person shall display and on finding by N.R.A. any person may be publicly deprived of the right to display any Blue Eagle or other NRA insignia if he violates any provisions or the spirit and intent of any code, Presidental or regulation, duly prescribed or approved."

Because of this fact the procedure for the handling of complaints becomes at the same time the procedure for handling the Blue Eagle removals. In Sections A and B of this Chapter, the method of handling complaints by the State Offices has been outlined. These were the preliminary steps looking toward the removal of the Blue Eagle as well as attempts to adjust the case. This Section will trace the progress of a case after it had been forwarded by the State Officer or Code Authority to the Compliance Division in Washington or to a Regional Office.

Charts depicting the channels through which code violations passed are to be found in Appendix G hereto.

The authority to remove the Blue Eagle was first delegated by the Administrator to the National Compliance Board.(*) At this time the State Offices had not been set up and complaints of violations of the codes were being handled by the District Compliance Directors. No specific procedure to be followed by the National Compliance Board in handling complaints of violations or in removing the right to display the Blue Eagle was prescribed in the order creating the Board and it was left free to develop its own procedure. Office Order No. 4) also created within the Compliance Division, Trade Practice, Labor and Blue Eagle branches, the latter was amalgamated by Office Order No. 45 with the two other branches. Soon after it was set up the National Compliance Board began to hold hearings on compliants of violations of the FRA which had been forwarded to Washington by the Local Compliance Boards in these instances in which they had failed to adjust such complaints. Telegraphic notice of a hearing was sent to the respondent (person against whom complaint was made) about ten days before the hearing was scheduled. This notice advised him what provisions of the FRA he was charged with violating and stated that he might appear in person or be represented at the hearing. The hearing itself was informal and was more in the nature of a discussion of the facts in the case as gleaned from the file sent in to the Compliance Division, than a trial.

The Board also began to hear code violation cases in the same manner. These were complaints of code violations which the Code Authorities or District Compliance Directors had been unable to adjust, and in consequence thereof had forwarded to the Compliance Division. When they reached the Compliance Division in Washington, they were routed to the appropriate branch, i.e., Trade Practice or Labor, and there examined to determine whether the file contained sufficient evidence of the violation charged. If sufficient evidence of the violation did not appear in the file, a request for further information was sent to the forwarding agency. If sufficient evidence did appear, a hearing was scheduled before the Board. Unless the violation was flagrant and the respondent had shown no disposition to adjust the case, the Board usually offered the respondent one more opportunity to adjust the case, by mail if he was not present nor represented at the hearing.

(*) Office Order No. 4[illegible], October 20, 1933.
"It will be the duty of the National Compliance Board, on reference of complaints from the National Compliance Director, to undertake further attempts at adjustment, recommend exceptions, remove the Blue Eagle or recommend reference to the Federal Trade Commission or the Attorney General for appropriate action."

If the case was not adjusted the Board in nearly all instances voted to remove the respondent's right to display the Blue Eagle. The respondent was notified of this action by wire, directing him to surrender all of his Blue Eagles to his local Postmaster and not to display any Blue Eagles thereafter except upon written permission. This action was taken in the name of the Administrator:

In the latter part of January, 1934 the Compliance Division set up State Offices in each state. These took over and extended the work of the District Compliance Directors.

The Compliance Division, with its Trade Practice and Labor branches, continued to handle all code violation cases sent to it by the Code Authorities and the State Offices in the manner outlined above until March 26, 1934. On that date, Office Orders No. 74 and No. 79 set up a new method for handling code violation cases.

Office Order No. 74 created the office of First Assistant Administrator and made him responsible for compliance, enforcement and other problems of code administration. (*) It created a Litigation Division which was responsible for all NRA litigation. (**) It also restated the functions and duties of the National Compliance Board. (***)

(*) Office Order No. 74, dated March 25, 1934.
"Reorganization for Code Administration. In order to concentrate the efforts of the organization on the problems of code administration and to promote more effective organization and methods for code administration, the following orders are effective immediately:
A. Office of the First Assistant Administrator.
1. The First Assistant Administrator will supervise and coordinate the reorganization and functioning of NRA for code administration. This will include reorganization for:
(a) Compliance and Enforcement
(b) Code Authority authorization, organization and procedure.
(c) Other problems of code administration.
2. The First Assistant Administrator will appoint an assistant for each of these functions.
3. It is contemplated that as soon as certain phases of the reorganization for code administration are completed and function smoothly they will be transferred from the Office of the First Assistand Administrator to the Executive Office for normal coordination and general supervision."

(**) Office Order No. 74, B. Compliance and Enforcement, dated March 26, 1934.

(***) Office Order No. 74, dated March 26, 1934. Paragraph B. 2.
"In addition to carrying on the remainder of the work in connection with the President's Reemployment Agreement as provided in Office Order No. 44, (October 26, 1933) it will be the duty of the National Compliance Board to consider all cases referred to it by the Industry Divisions, the Compliance Division and the Litigation Division. It will make recommendations to these divisions and to the Administrator as to the final disposition of particular cases and as to policies governing compliance and enforcement activities in general."

Office Order No. 79 specified an entirely new procedure. Up to this time no definite procedure for the handling of cases by the Compliance Division in Washington, or their presentation to the National Compliance Board had been prescribed, and the methods used had grown up very much like Topsy. The new procedure was as follows:

I. Responsibility of Deputies.

Code administration involves especially administration for compliance and enforcement. While the time of Deputies and Assistant Counsel was almost exclusively taken up in code making, the burden of effecting compliance with individual codes and of considering matters of enforcement thereunder was, to a great extent, assumed by the Compliance Division. From the date of this Order, each Deputy will be responsible to his Division Administrator for prompt action on complaints of violation of the codes assigned to him.

II. Field Contacts.

Enforcement and adjustment matters necessarily require a great deal of field contact work. Although contacts with industry in the field are intended to be made, so far as possible, by code authorities and their agencies, (carrying out the fundamental principle of NRA to give Industry, through its code authorities, the widest possible range of self-government, subject to the ultimate responsibility of the Administrator) there are, and will continue to be, many localities in which there is no code authority agency and many industries in which it will be impractical to have an extensive code authority field organization. It would be equally impractical for each Deputy to have agents in the field. Therefore, the field offices of the Compliance Division are organized as a service for all industries whose code authority organization is inadequate. These offices are the agents of NRA in the field. For administrative coordination they are headed up by the Field Branch of the Compliance Division and all contacts with them should be made through that office. However, it is not intended that the Compliance Division is to undertake the administration of all codes for compliance and enforcement. This remains the responsibility of the Code Authority, the Administration Member, and the Deputy and Divsion Administrator for each code.

III. Procedure.

In order to insure prompt, efficient and coordinated action on the part of code authorities and their agents, the Compliance Division and its agents, Administration Members, Deputy and Division Administrators, and the Legal and Litigation Divisions, the following procedure will be followed in the handling of compliance and enforcement matters by NRA:

A. The Compliance Division.

1. All transcripts of cases in litigation, unadjusted cases and original complaints involving alleged violations of NRA codes and agreements from whatever source will be routed from the NRA Mail Room to the Control Section of the Compliance Division without regard to whom the communication is addressed. All cases of this character which reach members of the organization without having been to the Compliance Division will be returned to the NRA Mail Room with instructions to forward to the Compliance Division.

2. The Control Section will sort and acknowledge all transcripts and complaints and will return to their source with an explanation all obviously erroneous or misdirected complaints.

3. All other transcripts and complaints will be jacketed and given a control number by the Control Section which will keep a record of each such transcript or complaint and will follow up the case until it is closed.

4. The Control Section will forward all transcripts and complaints to the Analysis Branch where they will be analyzed and a brief digest of the facts and action thereon to date will be attached to the record of such case. If upon analysis it is obvious that a complaint is erroneous or misdirected, it will be returned to its source with an explanation.

5. In all cases which have been handled by a State Director and in which the Compliance Division decides that further effective action can be taken by the State Director, the Compliance Division will return the complaint to the State Director with instructions as to the further action to be taken.

6. In all other cases the transcript or complaint, with the digest and the recommendations of the Compliance Division as to the disposition of the case from the general standpoint of compliance attached, will be transmitted to the Assistant Counsel assigned to the code involved. Whenever a transcript is so referred a duplicate transcript, disgest and recommendation will be immediately forwarded to the Litigation Division.

7. In all cases in which a transcript has been forwarded to Assistant Counsel a notice to this effect will be sent, by the Analysis Section, to the Secretary of the National Compliance Board who will notify the Assistant Counsel, the Control Section and the Litigation Division of the time when the case will be called by the Board.

B. Assistant Counsel.

The Assistant Counsel will study the case and will present it, with his recommendation on the legal problems involved and from the standpoing of legal policy, to the Deputy Administrator. It is the duty of the Legal and Litigation Divisions to insure that legal policies with regard to enforcement and compliance are kept uniform among the various Assistant Counsel.

C. Deputy and Division Administrators.

1. Transcripts.

The Deputy Administrator will add his recommendations, from an administrative standpoint, (e.g., whether a case should be expedited, retarded or quashed) to the record. All transcripts will be presented to the National Compliance Board by the Assistant Counsel at the call of the Secretary to the Board. The Deputy Administrator may appear at the presentation and in all cases will appear at the call of the Board.

2. Unadjusted Complaints.

a. The Deputy Administrator may decide that the case should be turned over for enforcement and/or deprivation of the right to display the Blue Eagle, or that is should be dropped or that further attempts at adjustment should be made either through the Code Authority, or the Compliance Division or in Washington.

b. In any case where the recommendations of the Assistant Counsel or in Compliance Division, as to the treatment of an unadjusted complaint (not a transcript), differs from the decision of the Deputy and an agreement cannot be reached, and in any case where an interested party objects to the decision of the Deputy, and in any case where the decision is to remove the Eagle or turn the case over to enforcement, the recommendation of the Division Administrator will be obtained by Assistant Counsel and the case presented to the National Compliance Board.

D. National Compliance Board.

1. The Board will consider all cases in which there is a transcript of a case in litigation and will transmit the case and make its recommendations thereon to the Litigation Division.

2. The Board will make final dicisions on the issue of the right to display the Blue Eagle.

3. The Board will consider all cases of unadjusted complaints presented to it by the Assistant Counsel. On such cases it may decide:

a. That the respondent should be deprived of the right to display the Blue Eagle, in which event it will make a recommendation to this effect to the Administrator.

b. That the case should be dropped, in which event it will make a recommendation to this effect to the Division Administrator.

c. That further attempts at adjustment should be made either through the Code Authority, the Compliance Division or in Washington. If the Division Administrator disagrees with the decision of the National Compliance Board the matter will be decided by the Administrator.

d. That the case should be turned over to the Department of Justice or the Federal Trade Commission, in which event it will make a recommendation to this effect and transmit the case to the Litigation Division.

4. In any case, if the Division Administrator or the General Counsel disagrees with the decision of the National Compliance Board the matter will be decided by the Administrator.

5 In all cases of course, a dissatisfied interested party has the right to appeal to the Department of Justice or the Federal Trade Commission from a final decision of NRA.

E. Litigation Division.

1 The Litigation Division will examine and analyze all transcripts referred to it and will insure that the Assistant Counsel, assigned to the Code involved, is informed of the recommendations of the Litigation Division from the standpoint of coordination of litigation so that the Assistant Counsel may present this recommendation to the National Compliance Board at the hearing on the case.

2. The Litigation Division will receive all cases in which the National Compliance Board has recommended enforcement and will be responsible for the case from that point on as provided in Office Order No. 74.

F. General.

Whenever a transcript or a complaint is transferred from one point to another in carrying out the procedure outlined above that fact will be reported to the Control Section of the Compliance Division by the person transferring the case together with a brief notice of the action taken or recommendation made thereon by him so that the control record will show, at all times, the location and status of the case."

This order now placed the responsibility for supervising compliance with the individual codes upon the Deputy Administrator who had charge of the other phases of the administration of those codes. It required them and their legal advisers to take an active part in compliance work; at the same time, it provided a set procedure to be followed in handling cases in Washington and specified the types of decisions which might be made by the National Compliance Board.

The Board was given the authority to make recommendations with regard to the removal of the Blue Eagle; these recommendations were made to the Administrator and theoretically at least, the final action removing the Blue Eagle was to be taken by him.

On April 9, 1934, the office of Director of Enforcement was created.(*) He was to have charge of all compliance and enforcement policy Three days later the office of National Compliance Director was abolished. (**) On May 21, 1934, the National Compliance Board was abolished and its functions transferred to the Compliance Division. The Board continued to function under the name of the Compliance Council, and no actual difference in its operations occurred except that it now

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(*) Office No. 83, Dated April 9, 1934.

(**) Office No. 85, Dated April 12, 1934

made its recommendations with regard to the handling of compliances cases and the removal of the Blue Eagle to the Chief of the Compliance Division, and any action taken upon its recommendations was taken in his name Under this arrangement final decision with regard to the removal of the Blue Eagle rested with the Chief of the Compliance Division. However, he followed the recommendations of the Council in nearly all cases. This system continued in effect until December of 1935 when the Compliance Division began to set up Regional Offices.

There were nine of these Rigional Offices, each having jurisdiction over a group of states and each performing the functions with regard to those states which had formerly been performed by the Compliance Division in Washington. The Regional Director had the authority to withdraw and restore the right to display the Blue Eagle after considering the recommendations of his Regional Compliance Council. (*)

The Regional Compliance Councils performed the same duties within their respective regions that the National Compliance Council had performed for the whole country.

After Office Order No. 79 was promulgated, notices of hearings before the National Compliance Board, and later before the Compliance Council, were sent to respondents by the Secretaries of those bodies. At the hearing the evidence in the case as it appeared in the files sent in by the Code Authority or State Director was presented to the Board or Council by the Assistant Counsel assigned to the particular code in question. The respondent, if he was present or represented, was then given an opportunity to make any statement he desired. After considering the evidence, the Board or Council rendered its decision, and if a violation was found, usually offered the respondent an opportunity to adjust the case. If he refused, the Board or Council then recommended the removal of the Blue Eagle. The same procedure was followed by the Regional Compliance Councils, except that the evidence in the case was presented to the Council by attorneys attached to the Regional Office.

Thus it was that the threat of removal of the right to display the Blue Eagle was used by the National Compliance Board and the Compliance Councils to bring about compliance wherever possible.

These same bodies also considered requests to restore the right to display the Blue Eagle after it had been removed. This was often done in those cases in which the respondent had made a satisfactory adjustment of the violation for which his Blue Eagle had been removed, after that action had been taken.

This procedure for removing Blue Eagles was followed in all cases except those arising under the Restaurant Code and the Local Service Codes. After Executive Order No. 6723 suspended the trade practice provisions of the Local Service Codes, the State Directors were

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(*) Office Manual III 4122.01323.

empowered to remove the Blue Eagle for violation of the Restaurant Code and for violation of the labor provisions of the Local Service Codes designated by the Administrative Orders issued under the authority of Executive Order No. 6723. (*) However, respondents in such cases could appeal to the Compliance Division in Washington from the decision of the State Director to remove the Blue Eagle.

2. Labels

Various administrative orders placed certain restrictions on the issuance of labels by the label codes. Among these were requirements that an applicant for labels be in compliance with his code before labels were issued to him. (**)

Until May 28, 1934, the removal of the right to use labels was effected in the same manner as the removal of the right to display the Blue Eagle. On that date, Administrative Order No. X-38 was promulgated. This Order empowered the Code Authorities of the label codes to suspend the issuance of labels if, after adequate hearing, such a Code Authority was convinced that the applicant for labels had violated his code. The Order required the Code Authority in such cases, to forward the record in the case to the Compliance Division. (***)

(*) - Office Manual III 4121.161

(**) A detailed discussion of the manner in which labels were issued is to be found in the Division of Review Study, "NRA Code Labels".

(***) Administrative Order No. X-38 (dated May 28, 1934), 4(d)

"Whenever the Code Authority shall have cause to believe that any one subject to the Code has violated any provision of the Code or of the Act, or of any rule or regulation duly adopted pursuant thereto, it shall give due notice of the charge against him and shall afford adequate opportunity to be heard. A substantial record of all hearings shall be made. If after such hearings, in the judgment of the Code Authority there is sufficient evidence of violation to justify such action, the Code Authority may suspend the issuance of labels to such person or firm. Immediately, and in no case later than the day following the suspension of the issuance of labels, the Code Authority shall file a summary of the record of the hearing with such recommendations as it may deem proper with the NRA Compliance Division, or such branch thereof as it may designate. The NRA Compliance Division, or designated branch thereof, shall have power, upon the record or after further hearing, to withhold the issuance of labels, to withdraw the right to use labels, to affirm, suspend or modify the action of the Code Authority, or to take such other appropriate action as it may deem necessary. In such conferences or hearings as may be held by the NRA Compliance Division, or designated branch thereof, the Code Authority shall be given an opportunity to participate."

The Compliance Division was given exclusive power to withdraw the right to use labels. (*) The Compliance Division or its authorized agent was also given the power to "affirm, suspend or modify the action of the Code Authority" in suspending the issuance of labels.

In an Order dated August 8, 1934, the Compliance Division established a Label Agency in New York City to which any interested person could appeal a decision of any Code Authority suspending labels. The power of the Compliance Division to affirm, suspend or modify the decision of the Code Authority was delegated to this label agent. Another such agency was later set up in California. An appeal from the decision of the label agency to the Compliance Division in Washington was also provided for in the August 8th order.

As the result of an agreement between the label Code Authorities and the Administration, a letter from the Division Administrator having jurisdiction over the label codes was sent to all the label Code Authorities. They were directed therein to secure the approval of the Label Agencies before obtaining the issuance of labels in any case.(**)

On February 25, 1935, Administrative Order No. X-135 was issued. This Order required that all applicants for labels should sign a certificate of compliance before obtaining labels; (***) that a Code

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(*) Administrative Order No. X-38 4 (d)(dated May 28, 1934.)

(**) Letter from Prentiss L. Cooney, Division Administrator, to all label Code Authorities, dated in October, 1934.

(***) Administrative Order No. X-135, (dated February 25, 1935) Section 8. "All applicants for labels who have heretofore signed a statement of Compliance shall be required to sign such a statement including substantially the following provisions before labels shall be issued to them:

"The undersigned hereby certifies that he is complying with all of the provisions of the Code for the _____ industry and with the National Industrial Recovery Act, and with all the rules and regulations duly adopted pursuant thereto. The undersigned further represents that he will use labels issued to him only on articles which are manufactured and sold in compliance with the provisions of the Code and of the Act and with the rules and regulations duly adopted pursuant thereto and only as long as he continues to comply with said provisions, rules and regulations."

Authority might, after an investigation, recommend to the NRA label agency that an application for the initial issuance of labels be denied. (*) The Order further provided for the suspension of the issuance of labels of the NRA Label Agency upon the recommendation of the Code Authority after a proper hearing by the Code Authority (**)

(*) Administrative Order No. 135 (dated February 25, 1935) Section 11. "Upon application for the initial issue of labels, the NRA Label Agency designated by the Compliance and Enforcement Director of the NRA, may upon a showing by the Code Authority of reasonable cause, extend such three day period to permit such Code Authority to determine the truth of the statements contained in such application and statement. If, after investigation, the Code Authority has reason to believe that there have been violations of the provisions of the Code, or of the Act, or any rule or regulation duly adopted pursuant thereto by reason of which the applicant should be denied the issue of labels, such Code Authority may, after following the procedure hereinafter provided for the suspension of the issue of labels, recommend to the NRA Label Agency that the initial issue of labels to such applicant be denied. The filing of such recommendation shall automatically extend the time for the initial issue of labels until the determination of such recommendation by such agency. The NRA Label Agency shall have the power to approve or disapprove such recommendation in accordance with the procedure hereinafter provided for the suspension of labels."

(**) Administrative Order No. X-135, Sections 12, 13, 14, 15, (dated February 25, 1935).

12. Whenever a Code Authority shall have reason to believe that anyone subject to its Code has violated any provision thereof or any rule or regulation duly adopted pursuant thereto or pursuant to the National Industrial Recovery Act, it may recommend to the NRA Label Agency, after a hearing conducted in accordance with the following procedure, that the issue of labels be suspended:

(a) Notice of hearing shall be dispatched to respondent by registered mail at least three (3) business days prior to the date of the hearing when the hearing is held at a place not more than ten (10) hours railroad traveling distance from the town where the violation is alleged to have occurred, and at least ten (10) days prior to the date of the hearing in all other cases. Written waiver by the respondent of such notice shall constitute sufficient compliance with this provision. The notice shall indicate the nature and the principal elements of the violation of the code provisions with which the respondent is charged. It shall further state as a result of the hearing, the Code Authority may recommend

The foregoing has to do only with the temporary suspension of the issuance of labels. All label cases, whether there had or had not been a suspension of the issuance of labels, were handled by the Compliance Division in Washington and later by the Regional Offices in the same manner as Blue Eagle removal cases except that label cases were expedited and took preference of other cases. The usual hearing was held before the Compliance Council and upon its recommendation the right to use labels was withdrawn or restored.

(**) Contd.

> the suspension of the issue of labels to the respondent. The notice shall be accompanied by a copy of this Order.
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> (b) The hearing may be held by the Code Authority or by any agency authorized by it. Complainants or persons who have participated in the investigation which preceded the hearing shall not act as members of the tribunal before which the hearing is conducted, nor shall any member of such tribunal participate in the presentation of the complaint or testify at the hearing. The presiding officer of such tribunal shall not be a member of the industry.

13. If, after such hearing the Code Authority or its agent for this purpose believes that there is sufficient evidence of violation to justify such action, the Code Authority or its agent may recommend to the NRA Label Agency that the issue of labels to such member of industry be suspended. Such recommendations shall be accompanied by findings of fact and by prima facie evidence of the violation embodied in a summary including the essential facts of the case and the contentions of the respondent. Upon receipt and consideration of such summary and such other material as it may deem necessary, the NRA Label Agency may direct the Code Authority to suspend the issue of labels pending further action as hereinafter provided. In the event that such NRA Label Agency directs the suspension of the issue of labels, the Code Authority shall immediately dispatch to respondent by registered mail a copy of the summary and of the order of the NRA Label Agency. If the NRA Label Agency disapproves the recommendation of the Code Authority or fails to act within five (5) days, the Code Authority may appeal to the Compliance and Enforcement Director.

14. If the NRA Label Agency approves such recommendations the Code Authority shall, within five (5) business days of such approval mail a complete record of the case including the notice of hearing (or waiver of such notice), the record of the hearing and all pertinent correspondence between the Code Authority and respondent with reference to the alleged violation to the Compliance and Enforcement Director and shall

(**) Cont'd.

simultaneously notify the NRA Label Agency and the respondent that it has done so. The respondent shall have the right to appeal to the Compliance and Enforcement Director from an adverse decision of the NRA Label Agency and shall be given a hearing if he so requests. In the event that the respondent does not exercise such right of appeal the Compliance and Enforcement Director shall, upon the record, or after further hearing of which the Code Authority and the respondent involved shall have notice and opportunity to be heard, approve, disapprove or modify the action of the NRA Label Agency and withdraw the right to use labels or take such other action as he may deem necessary. The respondent may at all times prior to the final determination of the matter by the Compliance and Enforcement Director apply to said Compliance and Enforcement Director for an order directing the Code Authority to issue labels in such quantities as may be proper pending such final determination. Nothing herein contained shall limit the power of the Compliance and Enforcement Director after a hearing and finding of violation to deny the initial issue of labels, to suspend the issue of labels or to withdraw the right to use labels in any case in which the Code Authority and the NRA Label Agency or either of them have failed to act. The Compliance and Enforcement Director is directed and authorized to order the initial issue of labels or the resumption of the issue of labels or to restore the right to use labels if he shall determine such action to be in the interests of compliance with a code.

15. No Code Authority shall take the final action of denying the initial issue of labels, or of suspending the issue of labels, or of withdrawing the right to use labels, or of resuming the issue of labels or of restoring the right to use labels unless the Compliance and Enforcement Director or the NRA Label Agency shall prior to the taking of such action issue an order approving and directing such action. If the respondent shall have satisfied the Compliance and Enforcement Director that he is in full compliance with the Code and the National Industrial Recovery Act and any rule and regulation duly adopted pursuant to said Act, the Compliance and Enforcement Director shall forthwith issue an order directing the Code Authority to resume the issue of labels to the respondent and restore to the respondent the right to use such labels. The Code Authority shall comply with orders of the NRA Label Agency or of the Compliance and Enforcement Director. The Code Authority shall not give or authorize any publicity in case of alleged violation until adjustment has been effected or until the NRA Label Agency has directed the suspension or denial of the issue of labels and shall, in any event, withhold publicity if so ordered by the NRA Label Agency or the Compliance and Enforcement Director."

CHAPTER V

APPRAISAL

A. EVALUATION OF LABOR COMPLIANCE.

In the attempt to evaluate compliance with NRA labor regulations, recourse may be had to statistical material assembled by the NRA Field Division from cases actually handled in the field -- statistical material by State, by code, and by national totals, relating to number of cases, origin of cases, size of cases, disposition of cases and other case aspects (for adjusted cases, no violation cases, and cases pending at the time of the Supreme Court decision). (*) Recourse may also be had to th to the supplementary information gained from the lessons of direct experience in compliance work.

The statistical data, hereinafter presented, as well as other material in the possession of the Statistical Section, NRA Field Division, do not afford a reliable indication as to the nature or extent of the actually existing state of compliance (measured against a theoretically possible perfect compliance) situation. It does, however, to a certain degree, when broken down by States, reveal, as between localities, comparative or relative deficiencies in compliance. Through evaluating performances of the various state offices (both those working under approximately similar and those working under entirely dissimilar conditions) an idea may be gained as to the negative aspect of compliance. Such comparisons are not made primarily to show variations in efficiency among the State offices, but, as already indicated, are undertaken with the view of throwing some light on the question of non-compliance. Some mention will be made later of the more direct reasons for these varying performances, but certain other fundamental reasons relating to the general problem of securing compliance will not be touched upon, since they were enmeshed in the basic fabric of NRA legislation and legislative policy. The development of the latter does not fall within the scope of this report. It is hoped, however, that the reader may find in Chapter III some clue to a few, at least, of these fundamental compliance problems which inhered in the NRA regulations. Yet despite the many intricate and basic difficulties which such problems created and, without minimizing their importance it may be stated that the writer is of the studied opinion that it was the administration by NRA of compliance itself, which was the cheif of the combined causes which conspired to thwart compliance.

(*) The material hereinafter included in the shape of tables and citations is derived from this statistical matter prepared by the Field Division, from census reports and from Research and Planning Studies. Tables 7 and 13 were compiled by the writer.

Observed variation in the results of the administration of adjustments is enough, alone, to show conclusively the potentiality at the time of securing, through varying the adjustment procedure, incalculable better compliance results than those obtained.

The assertion already made that the tables appearing hereafter reveal little as to the nature of actually existing compliance compared with 100% compliance is validated by many considerations.

As to number of cases recorded and the affirmative measurement therefrom of compliance, it may be pointed out that any gauge adopted, which depends on the case count of cases actually brought before the field offices, must be, to a considerable degree, an unsatisfactory measure of the state of compliance for the reason that the general method of case initiation required the filing of a complaint by some person (presumably familiar with the facts constituting the alleged violation) and did not usually provide for independent investigation by the government of compliance conditions.

Number of cases recorded by code and method of disposition (despite the complaint system and the incomplete adjustment methods) if taken together with effective date of code, number of establishments and employees of the industry, may reveal something as to relative compliance among codes (see Table 13) but little as to the general state of compliance in the nation.

A satisfactory compliance evaluation cannot be derived from the small number of mass compliance projects undertaken. Only one had administrative sanction and only it was effected on a national scale. (The Boot and Shoe Code drive) (*)

Waiving the question of future compliance by an establishment adjusting a proven violation, it is sure that little information can be obtained as to the state of compliance from consideration of the recorded number of case adjustments. There was tremendous divergence of method in adjusting cases presented to the state offices. Sometimes, but very rarely the method employed, undertook to effect total adjustment for all employees of the establishment who might have been prejudiced by any violation concerning which expressed policy, as of June 1934, and perhaps earlier, dictated the payment of restitution -- such adjustment to cover the period of violation at least as far back as the effective date of the code in question. Often, however,

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(*) Very few reliable compliance estimates can be gained from results of this drive. The methods used in the inquiry were not calculated to develop the existence or non-existence of compliance. See also Chapter III, B, for comment on compliance under the Boot and Shoe Code. (The writer found affirmative indications of violation in all three of the of the existing Boot and Shoe factories in San Francisco which were visited as a result of the drive.) The results of the few other drives engaged in, contibute next to nothing, since the drives were educationa and explanatory in nature, or failed of completion, or else exhibited the greatest possible defectiveness in the examinatory method used (for example, the use of untrained SEPA workers who, through interviews with employers only, were charged with the ascertaining of probable existence of so-called "major" types of violations).

adjustments were consummated on the basis of restitution being effected for only those persons complaining or for those persons on behalf the complaint itself was filed, or, again, it was frequently the case that little attention was paid to exact or even approximate calculation of the period of time during which the violation might have been existent.

In nearly all instances the adjusting officer failed to inquire fully, or, even at all, into the question of possibility of violation of each of the applicable types of labor regulations, other than those concerning which there may have been specific complaint -- in other words, in the vast majority of cases handled, investigation of labor compliance was not complete.

As to number of no-violation cases recorded, it will be noted that these show a high ratio to adjusted cases -- (50,240 as against 47,312) -- almost equaling the latter in the national total of cases recorded. The comments pertinent to number of adjustments apply here with redoubled force. In the writers experience, out of 4 or 5 hundred cases examined on a total adjustment basis, -- cases of all types -- in not more than 10% was there no appreciable wage or hour violation discovered. This does not mean, of course, that in the remaining 90% of the cases the story of the complainant was wholly or even partially sustained. It means only that there was convincing evidence that some of the NRA labor regulations governing a particular case had been violated with respec to some employees.

Even should the false assumption be adopted that the majority of adjusted cases recorded represented complete adjustments, little in the way of conclusions as to the state of compliance could be gained from contemplating the national totals concerning number of cases adjusted, recorded by types of violation. For example, the totals of adjustments of complaints dealing with the reduction of wages above the minimum reflect an unbelievably low proportion when compared with other types of adjustment. (*) Eliminating 13 states for which precise statistical data is not available it would appear that there were something between 87 and 300 adjustments of this sort a violation, as compared with total labor adjustments of all types of over 50,000 cases. It is the view of the writer that for every 10 cases examined in which there was found to be violation of NRA hour regulations, there were 3 violations of provisions dealing with wages above the minimum.

It is not possible through scrutinizing only operating conditions as of the effective date of a particular code fully to realize the extent of illegal wage reduction entailed by the necessity to reduce hours. It has been pointed out already, elsewhere, that the President's reemployment

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(*) Reference is made in this connection primarily to violation of clauses forbidding the reduction of wages above the minimum, rather than to violation of clauses providing for equitable adjustment of the higher wages. The later provisions stood in a class by themselves as a problem to compliance and often required special consideration by the central authorities. The former were, however, clear in meaning and fairly precise in scope.

Agreement forbade reduction in compensation above the minimum in cases other than where compensation was effected on an hourly basis (see Chapter III B Page 70). In many cases the Reemployment Agreement, either in its original shape or as amended by substitution, required reduction of hours to the same degree as the code later enacted which subsequently came to govern the same establishment. In a great number of instances Paragraph VII of the Reemployment Agreement (affecting reduction of compensation above the minimum because of reduction in hours worked), was the subject of widespread violation by signatories of the Agreement. At the time of the cessation of the Agreement, under the terms of Paragraph XIII thereof, because of approval of a code governing the particular industry, those establishments which had violated Paragraph VII of the Agreement because of the fact that they had countenanced a reduction in compensation coincident with necessary hour reduction, were placed by virtue of such prior violations in a position of not directly violating the numerous provisions of those codes which substantially reenacted the provisions contained in Paragraph VII of the Agreement. For the reduction in compensation had already been effected at an anterior period and the code adjustment provisions could be only taken to apply to action taken at the time of, or subsequent to, the enactment of the code. There seems never to have been any clear-cut or consistent policy -- at least in the shape of field instructions--either requiring or forbidding the effectuation of restitution for violation of the Agreement committed by an establishment at one time governed by the Agreement, but cited only by NRA for code violations of a supervening code (it seems generally to have been the practice to reject complaints of violation of the Agreement filed after the expiration of the same, as also not to have required, in the general run of cases, at least, restitution under the Agreement by an establishment no longer governed by the same because of interposition of a code), consequently, in cases such as those instanced of violation of the Agreement without direct violation of the code a policy of not enforcing the Agreement might have been considered to operate as a defense to a charge of non-compliance with the wage adjustment provisions of the code, since there was failure to reduce either wages or hours at the time of the effective date of the code. On the other hand, if arguments as to estoppel of signatories of the Agreement to set up such a defense should have prevailed, or if the implication of applying the adjustment provisions on the subject to those persons adhering to the contractual obligations raised by the agreement and not applying the same code provisions to those persons not adhering to the same contractual obligations had been carefully considered, the logical conclusion would then have been arrived, at that establishments, previously having violated Paragraph VII of the Agreement could not be allowed to plead violation of the legal obligation as proof of compliance with the code. The latter seems to be the only sensible as well as legal solution, particularly in view of the fact that the Government undoubtedly had the right to enforce the terms of the Agreement, and thus to have placed violators of Paragraph VII on a parity with those persons complying with the Agreement. So far as the writer has been able to discover no attempt was ever made by the compliance field agents to inquire, systematically, into the question of compliance with Paragraph VII of the Agreement in the process of adjusting code provisions of a similar nature.

It may be said, in passing, that the indicated breakdown of the higher wage adjustment provisions of the NRA labor regulations was more instrumental in defeating the cause of general labor compliance than is usually supposed. As has been pointed out, those adjustment provisions bore a close and intimate relationship to number of hours worked, as well as to the general wage structure. Widespread failure to enforce them could not but bring the whole system, especially from the standpoint of labor, into disrepute.

National totals as to quantity of restitution secured by the NRA field officers reveal little. Restitution figures by code are not available for all codes at the present time. Complete restitution reports by State are, however available, and if, throughout the various localities the factor of period of violation be taken as a constant (since restitution relates to length of time of violation, as well as, to scope of violation by number of employees or by number of violating establishments), comparison of restitutions, particularly if related to number of cases docketed and adjusted may aid in the determination of the worth of the adjustments secured and hence of relative compliance. For the imputation may be made without hesitation that in those cases where total restitution was not effected, the totality of violations themselves was not brought to the attention of the respondents, primarily, for the reason that facts easily disclosed but not actually disclosed (because of the rejection of theory of total adjustment) would have uncovered the existence of further infractions to the understanding of a competent adjusting officer. Furthermore, in considering the state of compliance it would appear that the obtaining of full restitution for all violations would have been more effective in producing a state of conformity with the labor regulations than partial or haphazard restitution, for it may be argued in the majority of cases, that payment covering all violations is calculated to persuade the violator to avoid repetition of all such violations.

Summarizing, in the attempt to evaluate national compliance, the objections to the use of statistical material presented in national totals rather than in State or code breakdowns, it would appear, that from the former nothing but the most general sort of trends, chiefly relating to compliance from the time aspect, can be secured. (*)

To repeat, the method of case initiation, itself, was so conceived as to preclude, for the most part independent investigation on the part of the Federal Government directed toward the discovery of the nature of the state of compliance. Consequently, there is little or no indication on the compliance question as to establishments not checked. (**)

(*) Primarily significant among the general trends, are the national trends, which may be developed from the national totals on number of cases, source of cases, and restitution -- considered in point of time.

(**) It cannot be supposed in the absence of independent investigation that in most cases complaints, in any event would have issued against a violating establishment and that establishments not complained of were generally complying. The peculiar employer-employee relationship played an important part in discouraging even secret denouncement, particularly in the case of smaller establishments. Also, the widespread existence of non-compliance, operated, with the passage of time, further to discourage recourse to NRA. (See in this connection, the subject of "Mass Compliance" discussed in the "History of the NRA Compliance Division".)

Secondly, the number of adjusted or no violation cases cannot be viewed as any criterion of great value since the methods of adjusting were, in general, not directed toward the obtaining of complete compliance.

Thirdly, confusion as to exactitude of legal obligation makes it difficult to assess statistical results translated in terms of such confusion.

To these objections must be added a fourth, namely, the failure of the State offices to maintain adequate records even as to those violations actually adjusted. This fact rendered very difficult the problem of compiling the statistical material. A large amount of guesswork must, necessarily have been indulged in for the purpose of completing the statistics.

In connection with the question of records and evaluation of the results of compliance activities, it should be borne in mind that compliance procedure required that the person charged with the adjustment of a case should, not only seek to obtain conformity with NRA regulations, but should also in a quasi-judicial manner make findings, of fact. This merger of functions, while perhaps necessary and expedient at the time for practical reasons, was not conducive to the attainment of high compliance, since there was no obligation, on the part of those initially handling a case, to perfect a record of fact, which would satisfy even the most rudimentary principles of administrative fact finding procedure. It was only after the person first handling the case had found it impossible to adjust it in a manner satisfactory to him that an attempt was made before some such body as a Regional Compliance Council to establish some sort of reasonably accurate factual record. The very great majority of cases handled in the field never reached the stage of being transferred to a Regional Compliance Council or a State Adjustment Board. An examination of a large number of original files prepared by the field adjusted or other persons first working on the cases, shows an absolute lack of recorded factual material which any satisfactory adjustment must have revealed. In an extremely large group of other cases the file does not show the method by which the mathematical formula for restitution procured was obtained. In other cases a rather detailed factual account of certain circumstances considered pertinent is disclosed but no attempt is made to show that each labor provision of the particular code had been considered in relation to the respondent's business. In short, failure to keep proper records and failure to insist on obtaining all facts which would show a violation of, or compliance with, each of the regulations of the particular code under which a case was filed, aided most greatly in perpetuating the various unsatisfactory methods methods used, which at best could only be said to be adapted to obtaining partial adjustments.

In a search for an explanation of the causes which make accountable the existence of the many flaws in the procedure of the compliance agencies, especially the partial adjustment procedure, many contributing causes must be considered. Undoubtedly, one of the chief causes was the failure of compliance policy to organize its problems. Instructions

given the field in the shape of field letters were not well organized. Emphasis was not laid on the total adjustment procedure so necessary to compliance. The compliance policy, itself, vacillated and failed to cover many points, particularly on the subject of restitution and the manner of its calculation. (*)

Another cause was the lack of sufficient persons charged with the duty of case adjustment. Delicate and difficult as was the task intrusted to the latter, the enormous volume of work (particularly if any mass compliance program were undertaken) rendered it almost impossible in many of the larger offices for these persons to carry out their task satisfactorily without being swamped by a continuously increasing backlog of accumulating cases. (**)

A very great contributing cause, was the lack of proper training afforded the field adjusters as well as other productive officers and improper selection of the same. It is apparent from what has already been said that such officers should necessarily have undergone a thorough and intensive period of training during which they should have been advised as to problems of code jurisdiction, interpretation, explanation, approach to employee and employer, gathering of evidence and the many other special problems which rendered their task so difficult. In very many cases the ignorance, revealed not only by the field adjusters but by their superiors, on matters of this nature was such that it can only be termed shameless. The writer is relectantly impelled to state from personal experience that the ignorance and inefficiency on the part of persons charged with adjustment was from many standpoints one of the more crushing of all the many blows aimed at compliance.

Despite all the objections advanced to the use of statistical material presented, it is apparent, as heretofore indicated, that the data when considered by State (and, to a lesser extent, by Code) totals show results which may be translated into terms of comparative local compliance. There is no reason to suppose that relative paucity of number of complaints and adjustments, and of quantity of restitution, revealed a high state of compliance. On the contrary, NRA experience clearly indicated that the opposite was true (see infra page 238), and it may be taken as true that in jurisdictions where number of complaints and adjustments and quantity of restitutions were below what might be reasonably expected, the lack was largely attributable either to the effect of widespread non-compliance in discouraging complaints or to the methods of adjustment pursued, or to both. It is a fair assumption to make that violations were very current in nearly

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(*) A thorough comprehension of the various policies and their chronological sequence is absolutely necessary in order that compliance results attained, or not attained, or expected to be attained may be understood in the light of the development of NRA compliance activities.

(**) This was particularly true of the New Jersey State Office, but it may be said that the number of field adjusters throughout the United States should easily have been doubled in order to produce effective results. (See Table 16).

all jurisdictions but were particularly frequent in localities where labor conditions prior to NRA were comparatively debased, and in industries in which NRA regulations effected a relatively great departure from prevailing labor standards (See Chapter III, A).

Comparison of results of the various State offices, (weighted by appropriate industrial coverage allowances), is, therefore, a method whereby comparative compliance between States may be determined, at least in a rough manner,(*).

For example, if a larger State (i.e. larger by number of establishments or by population) docketed a fewer number of cases or a lesser porportionate volume of cases (i.e. porportionate to establishments or population) than a smaller State -- if weight is attached to the reports of adjustments and no violation cases as to particular types of violation actually investigated, even, though, complete investigation of the establishment as to all types of violation had not been undertaken, so that the establishment examined could not have been certified to be in complete compliance -- the inference would be that a larger number or a larger porportionate number of cases had, at least, been partially (i.e. as to one of certain types of violation examined) certified to be in compliance in the smaller State than in the larger one. (**) Such greater porportional partial compliance ratio indicates a higher degree of total compliance in the smaller state (***) since it may be accepted on the basis of experience, if not, that the number of violations in unchecked and uninvestigated establishments remains fairly constant by

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(*) Such comparison does not necessarily indicate precise degree of the efficiency of the various State offices since the vitally important factor of quality of investigation and adjustment, of no violation cases and adjusted cases cannot be compared by using the statistics and information available (except by inference from the reported relative quantities of cases handled by types of labor violations). Furthermore, it should be remembered that the various State offices operated under a variety of different economic and social conditions, although the experience of the writer has demonstrated to him that this factor should be discounted, largely, in the attempt to measure efficiency since it was possible to obtain superior compliance results, even under the most trying conditions.

(**) The great bulk of docketed cases were either adjusted or rejected for lack of violation, save in the New York State office, so that the sum of adjustments and rejections for lack of violation fairly represents the total of docketed cases.

(***) By "compliance" is understood compliance by establishment and compliance by type of labor regulations rather than compliance computed on the basis of number of employees affected by the same general type of violation in the same establishment. "Compliance" is taken to mean not only compliance existing without governmental intervention but also compliance effected through such intervention.

State (*), at least, that there was not less proportionate total violation (i.e. violation figured by establishment for both checked and unchecked establishments or violation computed on the basis of number of employees affected) in the larger States than in the smaller States.

The ratio of adjustments to no violations when compared by State is of significance, inasmuch as a high ratio of no violations to adjustments indicates a lesser degree of even partial adjustment, since, as previously stated, the rather considerable experience of the writer in the effecting of "total adjustments" has indicated that the great majority, at least, of docketed cases, would, after complete investigation, reveal some substantial wage or hour violation. (See appendix 1).

Before presenting the statistical information, some comments on general experience of the writer may be of value as aids to its interpretation.

In considering the three chief divisions of NRA labor regulations, i.e., minimum wages, maximum hours, retention of wages above the minimum despite necessity for hourly reduction, it may be stated as the experience of the writer that minimum wages in Region 9 (comprising the States of Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington) were very usually adhered to in the case of manufacturing industries, generally adhered to in the case of the distribution trades, and in far more than a majority of cases, adhered to in the case of the service trades.

Maximum hours, however, were the subject of most common violation (a conservative estimate being probably 40% compliance in all industry and trade). In the service trades the percentage of hour violations was far higher than for the total of all trades and industries.

As to the so-called adjustment provisions dealing with retention of wages above the prescribed minimum, it may only be stated that there were a great many establishments in violation. As there was considerable variation in the expression of prescribed equitable adjustment and retention of wages above the minimum among the various codes, it is not easy to compare them by groups in this respect (see Chapter III A). However, since these provisions were generally more drastic in codes for industries and trades other than for the service trades, it cannot be stated that there were more violations perpetrated in respect of this subject by establishments falling under the service codes.

(*) Interesting conclusions might be drawn by comparing the number of code establishments by State and number of compliants by code and by State with number by State of docketed, adjusted and rejected cases. Unfortunately, the number of complaints by State and by code are not immediately available, although, the code national totals by number and disposition have been compiled. (See table 13).

Concerning retention of wages above the minimum, it can only be said that, vague and unsatisfactory as may have been many of the provisions dealing with this subject, inadequate, also, as may have been the compliance policy formed as well as the instructions given to the field offices on this question, they were, in the main, susceptible of enforcement and might well have been enforced. It is the sober conclusion of the writer that over 95% of the violations of these provisions were never adjusted, largely because of failure in many cases of the personnel charged with the adjustment of cases to understand those provisions which a study of instructions and interpretations might have clarified, and also largely because of failure due to faulty adjustment methods to apply to the facts those provisions not in need of clarification.

In considering the measure of relative compliance with respect to the three types of labor regulations mentioned, the primary consideration to be remembered is the degree of departure from prior labor standards effected by the particular Code or in the particular locality. (*) (See Chapter III A)

As to adjustments and ability to secure them, the experience of the writer is that over 95% of all violations could have been adjusted by use of proper technique adapted to suit the situation confronted.(**) It may be stated, as a general proposition, that service industries presented special adjustment difficulties. This was true because of lack of responsibility, dearth of capital invested, lack of organization of labor employed, keen competition and other reasons arising from the inherent nature of these trades. Only in these trades, in similar trades presenting like conditions, and in a few other trades or industries, was it markedly more difficult to secure proper adjustments. Even in these instances it was, by no means, unfeasible or impractical to obtain restitution and assurance of future compliance, particularly in those States which had enacted legislation adopting NRA regulations as State law.

(*) Such consideration explains to a large extent the experiences outlined concerning types of violation by types of Codes. So for example, there were relatively few minimum wage complaints in the city of San Francisco -- where wage scales before NRA, in the majority of cases equalled or excelled the code minimum scales. So, again, service trade complaints were particularly common in the same locality because of the great reduction effected by the codes governing the service industries in number of hours customarily worked.

(**) In this connection may be mentioned, among many others, persistence of purpose, educational explanation, presentation (without resort to extortion) to the attention of the respondent of the many possible consequences of failure to adjust (from publicity to prosecution), assurances of impartial application of code regulations to all competitors, willingness to accept time payments as restitution from respondents financially unable to meet immediately the payment required. The restitution difficulties created by poverty of respondents must not be exaggerated, as experience has shown that nearly all but bankrupt establishments can restore money owed for violation of NRA wage or hour regulations, at least, over an extended period of time.

Experience as to the number of violations in cases reported has already been detailed. As pointed out, this experience does not agree with the statistical data on the subject, because of the method of partial investigations and partial adjustments employed.

In conclusion, it may be said that the greatest of all the truths taught by experience is that lack of proper enforcement on a wide front was the outstanding and main reason for the shoddy situation with regard to the state of general labor compliance. As has been said so many times, the adverse effect of non-compliance on compliance cannot be overrated. Excluding legal difficulties, for the moment, the writer states that it is his emphatic view that the lack of proper enforcement as exhibited only in two aspects (there were many other aspects) -- i.e., lack of initial enforcement efforts under the President's Reemployment Agreement and in the early days of NRA, and method of "adjusting" cases employed in its later days -- were, alone, enough to undo compliance. Many believe that the battle was all but lost because of non-enforcement even before the end of December 1933. (*)

So much for experience. Its teachings must be borne in mind and its warnings observed, if proper conclusions and opinions are to be derived from the statistical material assembled. (**)

(*) In considering the course that NRA should have adopted with regard to its labor regulations from the standpoint of compliance, careful consideration of legal as well as of practical questions impels the writer to believe that the Agreement should have been enforced by the Government through a mass compliance program as a civil contract, that it should have been framed to endure for a more considerable period of time, in order that during such time, ways and means might have been sought by the Federal Government, (buttressed in its efforts by suitable State legislation) to enact appropriate and constitutional labor regulations, the same to be tested in the courts before being declared valid to such an extent as to merit replacing the terms of the Agreement.

(**) It will be remembered from what has already been said that the chief value of the statistical material is the information which it conveys by state and by code. Physical difficulties render impossible the inclusion of all but two tables showing State breakdowns. These tables in the possession of the Statistical Section, NRA Field Division, are available for use. Only certain significant figures for individual States have been cited. Lack of available time has prevented analysis and comparison of Code breakdowns. However, it is hoped that some information of value in this connection may be gained from examination of Table 13. Unfortunately, as already pointed out, statistical totals, by Code and by State, are not immediately available so that the comparison of Code breakdowns with State breakdowns cannot be made.

A cursory examination of Table 1 (a) reveals the striking ratio of 50 to 47 as between adjusted cases and "no violation cases". The no violation cases included those docketed cases in which the investigation failed to reveal the existence of violation, or in which the evidence of violation presented was not strong enough to justify the assumption of violation. It is felt that the large percentage of no violation cases is largely due to the failure, upon the receipt of complaints, to inquire into the state of compliance as to all pertinent labor regulations with respect to all employees. As already stated, more thorough investigation would undoubtedly have shown that a great number of violation cases did not indicate compliance with all governing labor regulations or restitution for all past violations.

It is of interest to note that the ration of 50 to 47 is in no wise indicative of the performance of the individual State offices. So, for example, New York adjusted 3,571 labor cases and found that there was no violation in 7,153. Minnesota, on the other hand, adjusted 3,251 cases and found no violation in 678. Nevada reports 471 adjusted cases and 131 no violation cases while Idaho presents 163 adjustments and 347 no violations.

In connection with Table 1 (a), the total number of docketed cases should be compared with the total of adjusted and no violation cases. So, for example, the State of Delaware with a docketed case counts 284 cases adjusted 70 cases and found no violation in 97 complaints. With this result should be compared the figures for Nevada (a State with two and a half times less population, and far fewer establishments than Delaware. See Table 2) which secured 646 cases and as above stated, adjusted 471 and rejected for lack of violation, 131. Compare also Arkansas, which, out of a case count of 989, adjusted 355 and rejected, because of no violation, 559. As to cases dropped for policy reasons, note Nebraska with 77 cases out of 2,335, Minnesota with 76 out of 3,049, Montana with 95 out of 860, Virginia with 38 out of 2,255.

The case count by States of adjusted, rejected and docketed cases should be related to Tables 2, 3, 4 and 5, which are designed to give information with respect to population by States, number of employees and number of establishments as well as size of payrolls. Table 2 is to be used for the manufacturing industries. (The Census Report from which this table is taken limited the survey made to establishments with gross earnings of over $5,000.00 See report of Census of Manufacturers 1933 for other details as to scope of survey undertaken) Table 3 presents the same information as contained in Table 2 but covers instead service and amusement establishments. Tables 4 and 5, respectively, refer to retail establishments (including restaurants) and to restaurants. Lack of available opportunity has prevented inclusion of data as to wholesale distributing trades. (See, however, census compiled on this subject by CWA for the year 1933.) for adjusted cases, and estimated restitution for dropped and pending cases.

Table 6 shows total restitution figures. Table 7 shows rank of State in total restitution (effected through combining PRA restitution with code restitution). The restitution figures together with statistics given in Tables 2 to 5 inclusive, should be compared with Table 1 (a). The results of such comparison seem remarkable in many cases. Consider for example Washington (30th in population, 6th in restitution,

with 2,307 manufacturing establishments and with 2,307 cases docketed), Illinois (3rd in population, 11th in restitution, with 10,740 manufacturing establishments and with 5,072 cases docketed), Nebraska (32nd in population, 9th in restitution, with 992 manufacturing establishments and with 2,335 cases docketed), Idaho (43rd in population, 48th in restitution, with 347 manufacturing establishments and with 510 cases docketed), Nevada (49th in population, 47th in restitution, with 86 manufacturing establishments and with 646 cases docketed), Louisiana (22nd in population, 12th in restitution, with 1314 manufacturing establishments and with 1573 cases docketed), Utah 40th in population, 26th in restitution, with 440 manufacturing establishments and with 385 cases docketed), Vermont (42nd in population, 49th restitution, with 530 manufacturing establishments and with 132 cases docketed), and many others.

As to whether number of cases handled and restitution varied with number of employees rather than with number of establishments, compare Kentucky (17th in population, 31st in restitution, with 1274 manufacturing establishments, with 1155 cases docketed, with 56,685 manufacturing employees and $44,292,327 total manufacturing payroll), with Kansas (24th in population, 17th in restitution, with 1272 manufacturing establishments, with 1221 cases docketed, with 32,608 manufacturing employees, and $31,142,855 total payroll).

It is of interest to compare total restitution by case count as well as by number of establishments. So, for example, West Virginia with 434 adjusted code cases, Kentucky with 509, Maine with 260, New Hampshire with 347, Rhode Island with 453, District of Columbia with 582, South Carolina with 336, Florida with 407, Mississippi with 539, Alabama with 381, South Dakota with 239, Wyoming with 244, Arkansas with 355, Montana with 555, Nevada with 471, Arizona with 252, may be compared with Utah which adjusted only 220 cases but which secured more restitution than any of the States named. Compared also Mississippi with 539 code adjustments and $29,547.94 in restitution and Louisiana with 502 adjustments and $92,636. in restitution. Compare also Montana and Louisiana.

The bi-weekly field reports of the State offices, not used in the statistical analysis, show restitution by time as of June 24, 1934. The State of Utah shows 36 cases adjusted between June 24, 1934 and January 14, 1935, with a total restitution of $1193.39.

The following results for the State are tabulated for the period subsequent to January 15, 1935.

End of Bi-weekly Period	Adjusted Cases	Restitution
Jan. 19	5	$ 621.15
Feb. 2	10	5,075.52
Feb. 16	16	8,178.98 - $119.70 PRA
Mar. 2	12	7,440.25 Restitution)
Mar. 16	8	3,052.33 - $1,198.37 PRA
Mar. 30	9	4,502.77 Restitution)
Apr. 13	10	1,530.41
Apr. 27	8	2,049.09
May 11	14	2,587.20
May 25	12	2,862.27 - $81.90 PRA Restitution)

The explanation of these results is attributable to the regional policy of sending on January 15, 1935, to two regional adjusters into the State in order to effect adjustments. The writer, as one of these adjusters, is prepared to state that the same results could most certainly have been secured before January 1935 by using a different method of case adjustment from that actually employed. Thorough establishment check combined with persistence of purpose and an adjustment technique calculated to adapt itself to the situation to be coped with were the chief reasons for the success of the regional adjusters. This statement is, in no wise, to be construed as in indictment of the Utah office which, with the exception of Nevada, was as efficient as, if not more efficient than, any other State office in the region, including California. At the time of the visit of the regional adjusters, it was found that the Utah office was operating with only two productive officers -- a State Director and a Labor Compliance Officer -- both of whom had many other functions to perform besides engaging in the adjustment of cases. The expressed reluctance of State officials to cooperate with NRA in enforcing the Utah State codes as well as lack of training of and instruction given to, the Federal Officers as to method of adjustment, amply exonerate the office. Furthermore, it is to be pointed out that the appointment of two trained State adjusters who began to perform their duties after the departure of the last regional adjuster in the latter part of February reflected itself naturally in the results shown after February 1935.

The writer participated in a similar experience in Arizona. That State had secured $2,172.48 in restitution out of a total of 65 cases handled between July 24, 1934 and April 13, 1935. The restitution and cases adjusted beginning with the bi-weekly period ending March 2, 1935, follow.

End of Bi-weekly Period	Adjusted Cases	Restitution	
Mar. 2	3	$ 80.25	
Mar. 16	0	-----	
Mar. 30	2	30.00	
Apr. 13	1	3.25	
Apr. 27	6	* 1,444.56	
May 11	8	* 2,376.29	
May 25	13	* 3,491.22	* $897.65
Reported June 8	1	812.99	PRA Rec.)

(*) Restitution covered by Regional visit.

Conditions in Arizona approximated those in Utah, but were in some respects even more unfavorable for the cause of compliance, although the Phoenix office possessed a considerably larger staff than the Salt Lake City office. The same explanation, i.e. method of case adjustment, is the explanation of the results attained. It should be noted in connection with the Arizona and Utah visits that the regional officers were in a position somewhat more advantageous to enforce NRA regulations than were the local NRA officers who were well known in localities long used to non-enforcement.

The Arizona restitution figures should be noted, particularly from the time standpoint as the adjustments came at a period immediately anterior to the Supreme Court decision. Restitution figures for nearly every other State indicate a decided falling off (together with a lesser number of cases received) for this period.

Neither in Arizona nor in Utah was a mass compliance drive undertaken but, in many cases, the regional adjusters, in order to secure cases, proceeded on information procured by active questioning of employees and employers.

In connection with restitution and adjustments in point of time, note Vermont which adjusted no cases and secured no restitution from June 24, 1934 to the first week in January 1935, with the exception of one case entailing restitution of $38.36 which the Rutland office reported on September 1, 1934, and one case involving a $10.00 restitution credited to the bi-weekly period ending December 8, 1934.

Table 8 shows types of labor violations by case count and method of disposition. The national totals, again, in no manner reflect adequately the State results. So, of labor adjusted cases, Colorado reports 341 adjustments of cases involving failure to pay overtime wages prescribed by a particular Code, Alabama 6, New York 388, Iowa 305. As to violating provisions relating to method and time of payment, 70 adjusted cases are credited to the District of Columbia, 74 to New York State, 43 to Ohio, 19 to Michigan, 5 to West Virginia, none to Georgia. Minnesota reported adjustments of 55 wage reclassification cases, San Francisco none.

Comparing total wage violation adjustments to total hour violation adjustments, see Rhode Island with 280 hour violations and 474 wage violations and Nebraska with 1,342 hour violations as against 740 wage violations.

As to employers working more than code maximum hours, note Oregon with 46 adjustments and Wisconsin with none. Violation of the six day week, Georgia 118, Tennessee, Alabama, Louisiana none. Kansas reported adjustments of 23 cases in which daily hours limitations were infringed, 308 where weekly hours were not observed, while Indiana shows 357 daily limitation cases adjusted and 73 weekly limitation cases. As to split shifts Connecticut 40, South Carolina none. Failure to post labor provisions were acted upon successfully 1,093 times in Massachusetts but Nebraska and Alabama show no adjustments. As to discharges or discrimination practiced for filing complaints New Hampshire 16, Florida none. The records from Oklahoma show 28 adjustments of cases relating to the

violation of regulations concerning permitted homework, New York 4, Oregon none. Region 4 adjusted no child labor cases with the exception of Georgia (12 cases) and Tennessee (3 cases).

The equitable adjustment (reduction of wages above the minimum) reports of the States showed first that only 87 cases throughout the nation were adjusted. However, there was some confusion in the compilation of the report and the States were asked to file supplementary estimates. 13 States (including New York and Pennsylvania) failed to submit such supplementary estimates.

Three hundred cases submitted on an estimated percentage basis of all cases handled (including cases recorded in the first report) were reported in the supplementary report. These three hundred cases, however, include not only adjusted but also no violation, dropped, and pending cases. It is reasonable to suppose that if the estimate be accepted at its face value, one half of the cases reported among the three hundred did not constitute adjustment cases inasmuch as, in the first report, there were 87 adjusted cases and 117 rejected or pending cases. Of the total reported and estimated, San Francisco reported 107 cases, 30 adjustments and 72 no violations; Utah 24 cases, 16 adjustments and 6 no violations; Nebraska 1 case and 1 adjustment, Kansas, Maine, Vermont, Massachusetts, Rhode Island, Tennessee, no cases docketed, adjusted or rejected (either by estimate or by report). Even on the basis of complete estimated percentages, San Francisco was first in equitable adjustment cases. On the basis of the first report Utah was second. (Again, only the national totals are shown).

Table 8 (a) shows relation by States of adjusted wage and hour cases.

Tables 9 and 9 (a) show State office complaints by source and by size. Disparity as to source of complaints emanating from the various States is, yet again, apparent. Virginia records 308 present employee complaints adjusted as against 76 former employee cases. Minnesota, on the other hand, shows adjusted 457 present employee cases and 1,199 former employee cases. It is submitted that Table 9 is defective as a representation of source of complaints as the San Francisco office reported 1,052 present employee cases as against 5 former employee cases. The writer has personally adjusted at least 20 cases in that jurisdiction which were initiated by former employees.

Table 10 indicates time elapsed between first action and closing of cases. The table, if broken down by States shows extreme variation. So, out of 2,271 cases Minnesota adjusted 793 immediately, 667 in the first week and with the increase of time progressively fewer cases. Nebraska shows the same trend, while Kansas adjusted the bulk of cases in the first week after taking first action and no cases immediately upon first action. Philadelphia and New York closed the majority of cases between the 46th and 90th day subsequent to first action. (*)

(*) It is submitted that a high percentage of immediate adjustments does not indicate a desirable tendency. Inquiry concerning extent of violation as well as contacting of persons authorized to effect restitution and other essential time consuming moves, including the arrangement of appointments, often elaborate computation and gathering of satisfactory evidence incline the writer decidely to the view that the majority of wage and hour violations could not have been satisfactorily adjusted at

As to time elapsed between first action and closing in the no violation cases, it may be said that the same general tendencies as to closing at an earlier or later date manifest themselves in the same way and in the same States as in the adjusted cases. Only Iowa, Minnesota and Houston, however, reveal the greater part of their no violation cases to have been closed immediately.

The question of number of cases received in point of time is of interest in studying the question of historical progress of enforcement and adjustment. In this connection, the reader is referred Table 11-A and to Tables 11, 12, the data in which has been taken from complete charts covering all States.

Table 13 shows number of complaints docketed by code but not by State, method of disposition and size of the industry. (*)

Some relative idea, however, of compliance by size of industry may perhaps be obtained from an examination of this Table. Table 13 should be supplemented by the use of Table 14 showing Codes under which the greatest number of labor complaints were registered. The 25 Codes listed accounted for approximately 75% of all complaints docketed by NRA.

Table 15 shows codes approved prior to Code No. 500 the labor provisions of which no State office reports as having handled.

Table 16 shows as of a fixed date, number of productive adjusting officers in State offices.

Table 17 shows number of P.R.A. cases received by the month.

General tendencies indicated by tables, prepared for Region 3 and Massachusetts and Minnesota, but not included in this report indicate that labor violations perpetrated by establishments employing less than 25 employees usually affected all or nearly all employees, while establishments having more than 25 employees rarely showed violations as to all employees. On the other hand, large establishments (those employing over 25 employees) were more prone to commit violations with respect to a small number of their employees than are small establishments (those employing less than 25 persons). As might be expected, it has been shown also that former employees were more apt to complain in establishments with more than 25 employees. As might again be expected, more time was consumed in adjusting complaints against larger establishments than was in adjusting small establishment complaints. Of perhaps noteworthy significance, is the fact that the former employee complaints which in the beginning were less in number than present employee complaints increased, with the passage of time, at the expense of the latter. This trend continued until the end. The former employee complaints began to equal and then exceed the present employee complaints in July of 1934.

(*) In the search to determine comparative state of compliance by locality and by industry, it would be of undoubted value if an attempt were made to break down Table 13 by State and relate such breakdown to the number of the various code establishments in each State. This operation has not been attempted by the Statistical Section of the NRA Field Division but such a table could be created if a great deal of time and labor were expended.

TABLES

NOTE: These tables cover only cone (and not PRA) figures unless otherwise specifically stated.

TABLE 1

N.R.A. STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES INVESTIGATED* a/
(October 19, 1933 - May 27, 1935)

Offices by Region	Case Count					First complaint against respondents (Included in Case Count)				
	Docketed (1)	Adjusted (2)	No Violation (3)	Dropped (4)	Pending (5)	Docketed (6)	Adjusted (7)	No Violation (8)	Dropped (9)	Pending (10)
Total All Offices	118,677	50,240	47,312	14,663	6,462	92,835	39,492	37,794	10,583	4,966
Total, Region I	11,672	5,430	5,203	470	569	9,206	4,330	4,120	320	436
(18) Maine	666	240	294	86	46	502	162	225	73	42
(28) New Hampshire	595	297	246	21	31	502	248	221	14	19
(48) Vermont	132	59	42	4	27	125	55	41	4	25
(20) Massachusetts	7,429	3,608	3,354	128	339	6,092	2,981	2,778	72	261
(41) Rhode Island	1,210	453	643	87	27	742	283	401	43	15
(7) Connecticut	1,640	773	624	144	99	1,243	601	454	114	74
Total Region 2	37,153	13,571	7,152	5,551	879	14,124	3,112	6,424	3,795	793
(32) Albany, N. Y.	1,584	502	652	398	32	1,231	382	517	310	22
(33) Buffalo, N. Y.	1,851	791	948	97	15	1,474	610	783	71	10
(31) New York, N. Y.	13,718	2,278	5,552	5,056	832	11,419	2,120	5,124	3,414	761
Total Region 3	18,643	7,276	8,336	1,513	1,518	14,365	5,763	6,433	1,104	1,065
(29) New Jersey	2,388	1,134	1,046	117	91	1,907	907	834	95	71
(39) Philadelphia, Pa.	6,223	1,989	3,010	505	719	4,687	1,519	2,308	392	468
(40) Pittsburgh, Pa.	3,125	1,423	1,345	168	189	2,316	1,087	986	123	124
(8) Delaware	284	70	97	98	19	239	52	86	83	18
(19) Maryland	2,233	581	963	461	228	1,519	394	687	279	159
(54) District of Col.	949	582	327	10	30	846	535	283	6	22
(49) Virginia	2,255	992	1,112	38	113	1,829	833	880	30	86
(34) North Carolina	1,186	505	436	116	129	1,022	440	369	96	117
Total Region 4	10,487	3,839	3,996	1,945	707	8,506	3,058	3,337	1,534	577
(42) South Carolina	1,179	336	443	363	37	1,013	309	409	266	29
(10) Georgia	2,192	968	741	364	119	1,544	665	529	268	82
(9) Florida	1,270	404	308	331	227	1,055	303	272	274	206

TABLE 1
(Continued)

N.R.A. STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES INVESTIGATED* a/
(October 19, 1933 - May 27, 1935)

Offices by Region	Case Count					First complaint against respondents (Included in Case Count)				
	Docketed	Adjusted	No Violation	Dropped	Pending	Docketed	Adjusted	No Violation	Dropped	Pending
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Total Region 4 (Continued)										
(44) Tennessee	1,630	715	439	348	128	1,274	589	324	276	85
(1) Alabama	1,575	381	813	259	122	1,512	358	792	240	122
(22) Mississippi	1,068	533	400	124	11	931	489	340	92	10
(17) Louisiana	1,573	502	852	156	63	1,177	345	671	118	43
Total Region 5	11,156	5,404	4,403	985	364	8,165	3,988	3,190	731	256
(21) Michigan	4,133	2,026	1,699	282	126	2,704	1,351	1,079	193	81
(36) Ohio	4,839	2,435	1,957	343	104	3,798	1,921	1,535	263	79
(51) West Virginia	1,029	434	480	71	44	784	312	372	59	41
(16) Kentucky	1,155	509	267	289	90	879	404	204	216	55
Total Region 6	12,136	5,006	4,428	1,543	1,161	9,228	3,781	3,384	1,137	926
(52) Wisconsin	2,058	824	614	195	425	1,727	697	520	145	365
(13) Indiana	2,804	1,323	864	339	278	2,259	1,052	690	287	230
(12) Illinois	5,072	1,994	2,213	519	346	3,489	1,335	1,577	343	234
(24) Missouri	2,204	865	737	490	112	1,753	697	597	362	97
Total Region 7	11,100	6,090	3,707	988	315	8,660	4,699	2,996	732	233
(23) Minnesota	3,049	2,251	678	76	44	2,164	1,607	471	54	32
(14) Iowa	1,985	800	995	151	39	1,541	593	813		28
(35) North Dakota	544	159	172	213	---	468	132	157	179	---
(43) South Dakota	484	238	202	34	10	340	157	155	24	4
(26) Nebraska	2,335	1,160	952	77	146	1,871	949	768	54	100
(15) Kansas	1,221	575	400	213	33	1,104	546	384	141	33
(53) Wyoming	314	244	44	17	9	250	195	34	14	7
(6) Colorado	1,168	657	264	207	40	922	520	214	159	29
Total Region 8	10,232	6,031	3,299	550	352	8,286	5,028	2,570	419	269

TABLE 1

N.R.A. STATE OFFICE COMPLAINT STATISTICS

NUMBER OF LABOR CASES INVESTIGATED* a/
(October 19, 1933 - May 27, 1935)

Offices by Region	Case Count					First complaint against respondents (Included in Case Count)				
	Docketed	Adjusted	No Violation	Dropped	Pending	Docketed	Adjusted	No Violation	Dropped	Pending
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Total Region 8 Continued										
(7) Arkansas	989	355	559	5	70	763	287	424	5	47
(37) Oklahoma	1,881	1,149	434	166	132	1,493	943	318	121	111
(46) Dallas, Texas	3,212	2,143	843	173	53	2,606	1,783	649	134	40
(45) Houston, Texas	3,830	2,270	1,275	188	97	3,149	1,917	1,018	143	71
(30) New Mexico	320	114	188	18	---	275	98	161	16	--
Total Region 9	16,096	7,593	6,788	1,118	597	12,295	5,133	5,340	811	411
(25) Montana	860	555	185	95	25	735	491	151	78	15
(11) Idaho	510	163	347	---	---	460	137	323	---	--
(47) Utah	385	215	103	30	37	302	161	89	23	29
(27) Nevada	646	417	131	44	---	424	321	81	22	--
(2) Arizona	431	252	149	4	26	323	190	111	2	20
(50) Washington	2,779	1,120	1,327	230	102	1,910	756	957	138	59
(38) Oregon	1,400	691	632	45	32	1,109	554	499	29	27
(5) Los Angeles, Calif.	6,060	2,703	2,371	574	322	4,626	2,121	1,846	441	218
(4) San Francisco, Cal.	3,025	1,333	1,543	96	53	2,406	1,002	1,283	78	43

a/ Excludes Complaints Sent to Code Authorities on Reference Prior to June 16, 1934, and also 236 cases reported by state offices as Trade Practice and subsequently reclassified as Labor. Also excludes 4,515 uninvestigated labor complaints pending May 27, 1935. These cases not represented in number of cases reported docketed in this Table.

Prepared by
Statistical Section
Field Division, NRA
February 14, 1936

TABLE 2
MANUFACTURING ESTABLISHMENTS 1933.

State	Rank in Number of Establishments.	Number of Establishments.	Number of Employees	Total Payroll	Total State Population	Rank in Population.
Maine	29	995	59,518	$45,867,147	802,000	35
N. H.	35	678	49,255	38,784,073	469,000	42
Vt.	36	530	15,083	12,456,113	361,000	46
Mass.	5	8,145	398,592	354,523,324	4,318,000	8
R. I.	26	1,254	92,512	76,123,742	702,000	36
Conn.	14	2,410	183,322	157,607,614	1,646,000	29
N. Y.	1	25,979	733,452	757,366,881	12,965,000	1
N. J.	7	5,759	295,574	283,242,414	4,193,000	9
Pa.	2	12,093	716,598	599,591,440	9,787,000	2
Del.	41	328	15,825	13,934,691	241,000	47
Md.	14	2,476	100,236	82,563,281	1,663,000	28
D. C.	38 tie	386	7,969	11,185,041	495,000	41
Virginia	19	1,864	100,673	70,443,749	2,441,000	21
N. C.	18	2,084	200,202	113,523,150	3,275,000	12
S. C.	31	888	104,336	54,760,752	1,748,000	27
Ga.	16	2,223	138,736	67,415,287	2,911,000	14
Fla.	21	1,474	44,378	24,450,105	1,554,000	32
Tenn	20	1,561	94,909	60,871,247	2,664,000	16
Ala.	22 tie	1,358	84,966	48,417,371	2,697,000	15
Miss.	34	746	27,823	13,635,982	2,047,000	25
La.	23	1,314	53,052	35,643,072	2,155,000	22
Mich.	9	4,633	350,266	346,110,871	5,043,000	7
Ohio	6	8,101	472,699	439,752,673	6,798,000	4
W. Va.	33	887	67,950	60,399,840	1,774,000	26

MANUFACTURING ESTABLISHMENTS 1933
TABLE 2, Con't.

State	Rank in Number of Establishments	Number of Establishments	Number of Employees	Total Payroll	Total State Population	Rank in Population.
Ky,	24	1,274	56,085	$ 44,292,372	2,648,000	17
Wis.	8	5,409	158,730	132,845,521	2,992,000	13
Ind.	12	3,373	198,940	172,055,471	3,291,000	11
Ill.	3	10,740	420,334,	403,682,236	7,826,000	3
Mo.	10	3,813	141,176	120,466,648	3,668,000	10
Minn.	13	3,312	69,633	64,023,712	2,594,000	18
Iowa	17	2,217	52,137	45,227,773	2,482,000	19
N. D.	42	3,103	3,103	3,290,441	687,000	38
S. D.	39	348	4,731	4,507,523	702,000	37
Neb.	30	992	19,483	18,872,032	1,392,000	30
Kan.	25	1,272	32,608	31,142,855	1,900,000	24
Wy.	44 tie	160	3,833	5,004,518	231,000	48
Col.	28	1,067	21,287	20,060,158	1,052,000	33
Ark.	33	819	25,955	14,039,389	1,872,000	25
Okla.	27	1,155	22,504	20,746,700	2,459,000	20
Tex,	11	3,648	91,374	73,426,730	6,023,000	6
N. M.	44 tie	160	2,996	2,362,598	434,000	45
Montana	38 tie	386	8,244	8,800,112	537,000	39
Idaho	40	347	7,682	7,082,110	447,000	44
Utah	37	440	10,213	9,298,801	518,000	40
Nev.	45	86	1,417	1,763,156	93,000	49
Ariz.	43	223	4,181	4,153,025	453,000	43
Wash.	15	2,307	67,752	62,116,862	1,599,000	31
Ore.	22 tie	1,358	41,052	34,786,861	983,000	34
Cal.	4	8,429	191,861	191,888,310	6,062,000	5

Source: Bureau of Census.

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a/Table III

Service Establishments and Amusement Establishments

1933

DIVISION AND STATE	Number of establishments.	Rank	Total Payroll. b/	Rank	Average no. full time employees	Rank	Average no. part time employees	Rank
UNITED STATES TOTAL	502,416		$701,594		657,481		202,519	
NEW ENGLAND	36,769		53,005		45,668		14,170	
Connecticut	6,755	22	9,228	16	8,056	26	2,739	18
Maine	3,613	35	2,975	35	3,517	36	1,185	33
Massachusetts	19,720	8	33,289	6	27,092	7	7,972	7
New Hampshire	2,090	41	2,100	39	1,974	41	690	42
Rhode Island	2,841	36	4,007	33	3,312	37	1,114	34
Vermont	1,750	44	1,406	45	1,720	44	470	45
MIDDLE ATLANTIC	122,350		217,090		168,702		47,973	
New Jersey	20,012	7	24,624	7	20,854	10	7,183	9
New York	66,196	1	150,206	1	108,995	1	27,281	1
Pennsylvania	36,142	2	42,260	2	38,853	4	13,509	4
EAST NORTH CENTRAL	108,243		152,545		139,383		46,984	
Illinois	34,173	4	66,229	3	53,024	2	18,588	3
Indiana	13,029	11	11,258	13	12,705	12	4,276	13
Michigan	18,580	9	24,149	9	24,334	9	7,386	8
Ohio	29,925	5	38,840	5	37,325	5	11,292	5
Wisconsin	12,536	12	12,069	12	11,995	13	5,442	11
WEST NORTH CENTRAL	61,346		60,061		64,436		19,418	
Iowa	11,566	13	8,509	19	9,686	20	3,566	16
Kansas	8,617	15	5,473	29	7,234	27	2,512	21
Minnesota	11,037	14	13,071	11	13,337	11	3,808	14
Missouri	17,091	10	24,587	8	24,361	8	5,962	10
Nebraska	7,649	19	5,406	30	6,065	30	2,317	25
North Dakota	2,603	38	1,444	44	1,887	42	533	43
South Dakota	2,783	37	1,571	42	1,866	43	720	40
SOUTH ATLANTIC	44,989		59,713		72,084		19,449	
Delaware	961	48	1,098	48	1,092	48	406	48
District of Columbia	2,413	40	8,603	18	8,849	24	1,095	35
Florida	6,270	25	8,488	20	10,716	16	2,270	28
Georgia	6,389	24	7,221	24	10,739	15	2,273	27
Maryland	6,825	21	9,829	15	9,356	22	2,868	17
North Carolina	6,227	26	7,107	25	9,958	19	2,593	20
South Carolina	3,854	33	3,874	34	5,207	32	2,736	19
Virginia	7,405	20	9,159	17	10,978	14	3,807	15
West Virginia	4,645	31	4,334	32	5,189	33	1,401	32

a/Resturants not included. b/Rank by state.

Table III (con't.)

DIVISION AND STATE	Number of establishments.	Rank	Total pay-roll.	Rank	Average no. full time employees	Rank	Average no. part time employees	Rank
EAST SOUTH CENTRAL	23,040		21,817		30,814		7,991	
Alabama	5,326	29	5,252	31	7,477	28	2,253	29
Kentucky	8,031	18	7,817	26	8,497	25	2,398	24
Mississippi	3,771	34	2,350	37	3,933	35	1,063	37
Tennessee	6,721	23	7,428	22	10,307	17	2,277	26
WEST SOUTH CENTRAL	39,582		41,872		53,154		14,798	
Arkansas	4,245	32	2,868	36	4,579	34	1,093	36
Louisiana	5,653	27	7,802	21	9,131	23	2,449	22
Oklahoma	6,574	16	7,258	23	9,491	21	2,212	30
Texas	21,110	6	23,944	10	30,014	6	9,045	6
MOUNTAIN	16,560		16,945		18,116		3,658	
Arizona	1,546	45	2,033	41	2,285	39	499	44
Colorado	3,523	25	5,053	27	6,461	29	1,735	31
Idaho	1,273	43	1,469	43	1,472	46	691	41
Montana	2,460	39	3,016	40	2,079	40	862	38
Nevada	541	49	694	49	802	49	236	49
New Mexico	1,254	46	1,211	46	1,709	45	444	46
Utah	1,974	42	2,1[illegible]	38	2,300	38	757	39
Wyoming	1,180	47	1,165	47	1,208	47	414	47
PACIFIC	48,928		75,516		65,785		26,101	
California	35,[illegible]15	3	61,280	4	50,084	3	18,818	2
Oregon	4,[illegible]3	30	6,013	28	5,370	31	2,427	23
Washington	3,[illegible]3	17	11,[illegible]3	14	10,271	18	4,856	12

Source: C.W.A. Census of American Business Activities.

TABLE 4

Retail Establishments and Restaurants

1963

Division and State	Number of Establishments	Rank	Average Number of Full Time Employees	Rank	Average Number of Part Time Employees	Rank	Total Pay Roll	Rank
UNITED STATES	1,526,119		2,705,325		730,287		$98,710,445	
NEW ENGLAND	105,646		232,747		57,902		243,852	
Connecticut	22,047	25	4[illegible],508	15	11,124	20	53,485	14
Maine	11,429	35	17,735	36	4,392	37	18,715	34
Massachusetts	52,430	9	133,358	6	33,047	6	136,224	6
New Hampshire	6,368	40	10,520	38	2,948	41	11,377	39
Rhode Island	8,438	37	19,080	34	4,307	36	21,242	33
Vermont	4,934	44	7,546	43	1,934	45	7,809	45
MIDDLE ATLANTIC	358,489		690,536		154,275		811,903	
New Jersey	64,190	7	95,938	9	23,794	10	119,927	7
New York	178,614	1	377,320	1	71,821	1	464,707	1
Pennsylvania	115,685	2	217,328	2	58,660	2	227,269	2
EAST NORTH CENTRAL	327,771		587,762		131,678		633,401	
Illinois	98,870	3	198,293	3	54,572	3	221,333	3
Indiana	41,256	12	63,666	11	21,842	12	63,315	13
Michigan	57,121	8	104,880	8	29,308	7	108,969	8
Ohio	85,961	5	159,406	5	30,755	4	172,264	5
Wisconsin	44,563	11	61,517	13	24,721	9	67,530	11
WEST NORTH CENTRAL	180,307		285,928		83,201		261,835	
Iowa	34,643	13	49,132	14	16,962	13	47,020	15
Kansas	26,779	16	34,724	24	12,172	19	22,313	32
Minnesota	35,879	14	62,195	12	16,123	14	64,783	12
Missouri	49,347	10	89,166	10	23,431	23	90,182	10
Nebraska	19,212	28	29,085	28	8,967	26	23,343	31
North Dakota	7,981	38	9,487	42	2,463	44	9,301	42
South Dakota	8,566	36	10,089	39	3,082	38	9,393	41

a/ Rank means rank by State. Rank figures refer to preceding column.

TABLE 4 (Continued)
Retail Establishments and Restaurants
1958

Division and State	Number of Establishments	Rank	Average Number of Full Time Employees	Rank	Average Number of Part Time Employees	Rank	Total Pay Roll	Rank
SOUTH ATLANTIC	168,200		277,813		80,067		268,956	
Delaware	3,420	47	5,673	46	1,890	46	5,331	48
District of Col.	6,156	41	28,508	29	4,397	35	23,681	30
Florida	21,697	26	33,484	20	9,453	25	30,813	23
Georgia	26,631	17	42,114	17	12,312	18	35,763	20
Maryland	23,487	21	42,724	16	12,576	17	45,707	16
North Carolina	27,652	15	39,181	19	14,000	15	38,165	19
South Carolina	15,528	31	20,218	33	7,444	28	16,961	35
Virginia	26,451	18	41,118	18	10,857	21	40,065	18
West Virginia	17,128	29	24,793	31	7,157	29	24,470	27
EAST SOUTH CENTRAL	83,270		116,939		33,662		100,843	
Alabama	20,049	27	29,962	27	8,686	27	23,788	29
Kentucky	25,672	20	32,503	26	9,847	24	30,220	25
Mississippi	14,772	32	16,906	37	4,831	34	13,271	37
Tennessee	22,777	22	37,568	21	10,298	23	33,564	22
WEST SOUTH CENTRAL	132,505		204,381		50,020		182,059	
Arkansas	15,918	30	18,323	35	5,594	33	15,299	36
Louisiana	22,239	24	36,970	23	6,381	32	30,411	24
Oklahoma	26,434	19	38,008	20	10,768	22	34,620	21
Texas	67,914	6	111,080	7	27,277	8	101,720	9
MOUNTAIN	44,301		73,150		21,030		80,163	
Arizona	4,749	45	7,345	44	2,471	43	8,455	43
Colorado	13,700	34	25,816	30	6,623	30	27,174	26
Idaho	5,139	42	7,183	45	2,666	42	7,940	44
Montana	8,732	39	10,147	40	2,958	39	11,813	38
Nevada	1,463	49	2,438	49	737	49	3,317	49
New Mexico	4,246	46	5,321	47	1,504	47	5,351	47
Utah	5,103	43	9,914	41	2,962	40	10,336	40
Wyoming	3,169	48	4,986	48	1,169	48	5,777	46
PACIFIC	125,630		236,017		68,442		282,431	
California	89,554	4	176,192	4	49,380	5	216,105	4
Oregon	13,769	33	22,335	32	6,440	31	24,064	28
Washington	22,307	23	37,491	22	12,622	16	42,262	17

SOURCE: C.W.A. Census of American Business Activities

TABLE 5

Restaurants

1933

State	Number of Restaurants and Eating Places	Rank	Full Time Employees	Rank	Total Pay Roll	Rank
District of Columbia	844	40	4,891	17	$ 3,537	16
Alabama	1,391	29	2,899	30	1,284	33
Arizona	657	41	945	43	680	43
Arkansas	1,765	30	1,744	33	833	37
California	13,528	4	26,337	3	23,588	2
Colorado	1,706	31	3,164	29	2,036	26
Connecticut	2,714	22	4,565	19	3,748	15
Delaware	372	46	446	49	297	48
Florida	2,784	21	4,939	16	2,563	19
Georgia	2,699	23	3,590	24	1,794	30
Idaho	545	44	799	45	559	46
Illinois	16,317	2	29,669	2	21,785	3
Indiana	5,409	11	7,177	13	4,497	13
Iowa	4,305	14	5,763	14	3,497	17
Kansas	3,119	17	3,706	22	2,084	24
Kentucky	3,021	18	3,518	25	2,131	23
Louisiana	2,903	19	4,660	18	2,488	20
Maine	972	38	1,632	36	1,054	36
Maryland	3,160	16	4,462	20	3,050	19
Massachusetts	5,281	13	13,205	6	15,126	5
Michigan	7,387	10	15,053	7	7,932	9
Minnesota	5,320	12	8,566	11	5,926	11
Mississippi	1,380	33	1,656	34	643	44
Missouri	7,398	9	11,746	9	8,120	8
Montana	912	39	1,532	37	1,209	34
Nebraska	2,590	24	3,295	27	1,998	28
Nevada	308	49	608	48	629	45
New Hampshire	616	42	1,415	40	1,065	35
New Jersey	8,287	8	10,891	10	9,631	7
New Mexico	459	46	673	46	390	48
New York	23,439	1	71,208	1	52,661	1
North Carolina	2,470	26	3,244	28	1,844	29
North Dakota	1,033	36	1,368	41	787	39
Ohio	11,311	5	19,906	5	13,653	6
Oklahoma	3,351	15	4,400	21	2,233	21
Oregon	1,693	32	2,892	31	2,238	22
Pennsylvania	14,289	3	24,458	4	17,136	4
Rhode Island	1,087	35	1,637	35	1,314	32
South Carolina	1,301	34	1,446	38	691	42
South Dakota	1,011	37	1,443	39	772	40
Tennessee	2,557	25	3,656	23	2,078	25
Texas	9,091	7	13,521	8	7,753	10
Utah	552	43	1,172	42	805	38
Vermont	391	47	664	47	424	47
Virginia	2,206	27	3,416	26	1,999	27
Washington	2,851	20	5,062	15	4,208	14
West Virginia	1,923	28	2,423	32	1,396	31
Wisconsin	10,687	6	6,421	13	4,793	12
Wyoming	483	45	921	44	692	41

Source: C.W.A. Census of American Business Activities.

Table 6

NRA STATE OFFICE COMPLAINT STATISTICS

AMOUNT OF RESTITUTION AND NUMBER OF EMPLOYEES PAID

Labor Adjusted Code Cases, Total of all Offices, October 19, 1933-May 27, 1935 a/

Number of Cases	
Total case count	50,467
Not reporting amount or employees	17,414
Reporting amount or employees	33,153
Reporting amount and employees	32,058
Reporting amount only	140
Reporting employees only	955
Amount (Dollars) of Restitution	
Total amount	3,611,439.81
In Cases Reporting amount and employees	3,570,173.12
In Cases Reporting amount only	41,261.69
Employees Paid	
Total number of employees	154,678
In Cases Reporting amount and employees	148,466
In Cases Reporting employees only	6,212
Average (Dollars)	
Amount per case	112.16
Amount per employee	24.05

a/ The offices were officially active from October 19, 1933 to May 27, 1935. Also included are 14 cases accepted prior to October 19, 1933.

Prepared by:

Statistical Section
Field Division, NRA
February 14, 1936

Table 6

NRA STATE OFFICE COMPLAINT STATISTICS

ESTIMATED AMOUNT OF RESTITUTION AND NUMBER OF EMPLOYEES OWED

Labor Dropped Cases, Total of all Offices, October 19, 1933 - May 27, 1935 a/

Number of Cases	
Total case count	14,325
Not reporting amount or employees	11,392
Reporting amount or employees	2,433
Reporting amount and employees	1,769
Reporting amount only	75
Reporting employees only	589
Amount (Dollars) of Restitution (Estimated)	
Total amount	545,443.78
In Cases reporting amount and employees	537,192.34
In Cases reporting amount only	18,251.44
Employees Owed	
Total number of employees	12,177
In Cases reporting amount and employees	9,151
In Cases reporting employees only	3,026
Average (Dollars)	
Amount per case	301.68
Amount per employee	58.70

a/ The offices were officially active from October 19, 1933, to May 27, 1935. Also included are 43 cases accepted prior to October 19, 1933.

'Dropped' cases do not represent investigated rejects but cases dropped for policy reasons.

Prepared by :

Statistical Section
Field Division, NRA
February 14, 1936

Table 6

NRA STATE OFFICE COMPLAINT STATISTICS

ESTIMATED AMOUNT OF RESTITUTION AND NUMBER OF EMPLOYEES OWED

Labor Pending Code Cases May 27, 1935, Total of all Offices, a/

Number of Cases	
Total case count	6,516
Not reporting amount or employees	2,508
Reporting amount or employees	3,970
Reporting amount and employees	3,512
Reporting amount only	173
Reporting employees only	285
Amount (Dollars) of Restitution (estimated)	
Total amount	1,696,958.38
In Cases Reporting amount and employees	1,589,920.99
In Cases Reporting amount only	107,037.39
Employees Owed	
Total number of employees	37,836
In Cases Reporting amount and employees	35,533
In Cases Reporting employees only	2,303
Average (Dollars)	
Amount per case	460.50
Amount per employee	44.74

a/ The offices were officially active from October, 1933, to May 27, 1935.

Prepared by:

Statistical Section
Field Division, NRA
February 14, 1936

TABLE 7

RANK OF STATE IN TOTAL RESTITUTION

PRA RESTITUTION PLUS CODE RESTITUTION a/

State	Total in Rank	Amount
Texas	1	$ 410,927.20
Pennsylvania	2	403,616.30
New York	3	(Exact figures unavailable - but between $390,000 and $400,000.)
California	4	341,892.58
Ohio	5	195,679.90
Washington	6	133,776.50
Minnesota	7	154,209.74
Missouri	8	122,479.19
Nebraska	9	100,187.95
Oklahoma	10	94,307.37
Michigan	11	93,361.69
Louisiana	12	92,626.42
Indiana	13	88,265.55
Massachusetts	14	84,158.95
Illinois	15	81,908.84
North Carolina	16	71,888.51
Kansas	17	67,638.12
Wisconsin	18	67,629.99
Maryland	19	66,995.55
New Jersey	20	60,332.72
Iowa	21	59,069.80
Colorado	22	49,924.37
Connecticut	23	49,554.05
Tennessee	24	49,494.07
Georgia	25	44,898.48
Oregon	26	44,021.89
Utah	27	42,371.58
Alabama	28	41,424.51
Virginia	29	40,958.45
Arkansas	30	35,439.19
Kentucky	31	35,307.94
South Carolina	32	33,133.95
Mississippi	33	30,601.54
West Virginia	34	28,168.61
Florida	35	18,415.04
Delaware	36	14,723.19 (Item of $10,000 reported unaccounted for.)
Rhode Island	37	14,395.53
New Hampshire	38	14,228.64
North Dakota	39	11,532.89
Wyoming	40	10,493.07
New Mexico	41	9,733.78
Arizona	42	9,397.45

TABLE 7 (CONT.)

State	Total in Rank	Amount
Montana	43	$ 8,558.95
Maine	44	6,276.77
District of Columbia	45	6,158.40 (Supplementary items not reported.)
South Dakota	46	5,131.57
Nevada	47	4,539.81
Idaho	48	3,976.47
Vermont	49	922.04

Note: a/

P.R.A. totals for La., N.H., N.M., Ohio, Va., Ill., - computed only as of June 24, 1934. Such P.R.A. restitution as is unreported for these states is very small.

TABLE 8

NRA STATE OFFICE COMPLAINT STATISTICS

VIOLATIONS OF LABOR PROVISIONS

Total of all Offices - October 19, 1933, to May 27, 1935 a/

	Total	Adjusted	Dropped	Pending
TOTAL NUMBER OF CASES	71,507 b/	50,311	14,731	6,465
TOTAL NUMBER OF VIOLATIONS	121,157	85,235	23,506	12,416
TOTAL HOUR VIOLATIONS	57,684	39,769	12,011	5,904
Maximum hours (if no more definite information is available)	17,290	10,213	4,041	2,136
Exceeding daily limitation	9,435	6,707	1,740	988
Exceeding weekly limitation	24,551	18,233	3,997	2,321
Failure to average down or exceeding limitation of more than one week	201	106	71	24
Sunday work	1947	670	189	88
Saturday work	330	198	73	59
Violation of six-day week	3,635	2,608	798	229
Working during hours of the day not permitted by code	218	142	61	15
Employer working more than code maximum where prohibited	391	312	66	13
Exceeding permitted number of persons working unlimited hours	86	77	6	3
Split shifts	600	503	69	28

	Total	Adjusted	Dropped	Pending
TOTAL WAGE VIOLATIONS	58,039	40,754	11,045	6,240
Minimum wage violation (if no more definite information is available)	20,394	12,608	5,289	2,497
Equitable adjustment, maintenance of weekly wage, etc. c/	105	87	11	7
minimum wage (definitely known)	26,226	19,629	4,086	2,511
Failure of piece rates to equal minimum	1,306	1,000	165	141
Deductions not authorized by the code	660	483	136	41
Failure to pay overtime rate specified by code for permitted overtime	6,963	5,212	900	851
Learners, apprentices or junior employees in excess of code allowance	338	262	37	39
Employing handicapped workers without certificate	104	85	7	12
Exceeding permitted number of handicapped workers	25	14	6	5
Violation of handicapped workers' certificate	37	28	5	4
Violation of provisions dealing with method of payment, time of payment, etc.	674	467	159	48
Female discrimination	78	54	19	5
Reclassification, improper classification and miscellaneous subterfuge	873	634	173	66
Waiting time not paid for	256	191	52	13

	Total	Adjusted	Dropped	Pending
TOTAL GENERAL PROVISIONS	5,434	4,712	450	272
Child Labor	316	254	43	19
Failure to post labor provisions	4,470	4,012	259	199
Employment and payroll records (see Trade Practice Classification) d/	2	2	-	-
Homework, permitting homework where prohibited	204	154	24	26
Violation of homework regulations where permitted	62	36	18	8
Discharge or discrimination for filing complaint	352	229	104	19
Miscellaneous	28	25	2	1

a/ The offices were officially active from October 19, 1933 to May 27, 1935. Also included are 14 adjusted and 43 dropped cases accepted prior to October 19, 1933.

b/ Total case count includes 70 adjusted, 68 dropped and 3 pending cases transferred from Trade Practice reports, not listed in Table I.

c/ See supplementary Table XIII-A for revised figures.

d/ State Offices generally reported this item as Failure to File Labor Statistics which is included in Violations of Trade Practice Provisions.

Prepared by:
Statistical Section
Field Division, NRA,
February 8, 1936

TABLE 8A

NRA STATE OFFICE COMPLAINT STATISTICS

LABOR ADJUSTED CASES

NUMBER OF WAGE CASES AND HOUR CASES

October 19, 1933 to May 27, 1935

	No. of Total Wage Cases	No. of Total Hours Cases
U. S. Total	40,754	39,769
Regionl	3,304	4,022
Me.	203	169
N. H.	358	345
Vt.	36	42
Mass.	2,651	2,497
R. I.	474	280
Conn.	622	689
Region 2	3,139	3,179
Albany	416	371
Buffalo	812	833
N. Y.	1,911	1,975
Region 3	6,280	5,274
N. J.	995	836
Phila.	1,931	1,572
Pittsburgh	1,204	910
Delaware	57	12
Maryland	628	469
D. C.	519	554
Va.	563	550
N. C.	383	371
Region 4	3,405	3,436
S. C.	283	259
Ga.	917	1,028
Fla.	452	353
Tenn.	685	659
Ala.	364	321
Miss.	205	339
La.	499	477
Region 4	4,884	4,104
Mich.	1,963	1,485
Ohio	2,230	1,987
W. Va.	346	290
Ky.	345	344

	No. of Total Wage Cases	No. of Total Hours Cases
Region 5	4,884	4,104
Mich.	1,963	1,485
Ohio	2,230	1,987
W. Va.	346	290
Ky.	345	344
Region 6	4,461	3,833
Wis.	667	591
Ind.	1,262	747
Ill.	1,676	1,879
Mo.	856	616
Region 7	5,056	5,273
Minn.	1,912	1,823
Iowa	881	764
N. D.	129	94
S. D.	138	216
Neb.	740	1,342
Kans.	344	352
Wyo.	114	154
Colo.	798	528
Region 8	5,537	4,819
Ark.	298	265
Okla.	595	889
Dallas	952	1,634
Houston	1,623	1,932
N. M.	69	99
Region 9	5,689	5,829
Mont.	122	186
Idaho	66	118
Utah	194	211
Nevada	101	532
Arizona	165	230
Wash.	1,159	1,072
Oregon	436	528
L. A.	2,211	1,999
S. F.	1,245	943

TABLE 9

N.R.A. STATE OFFICE COMPLAINT STATISTICS

SOURCE OF COMPLAINTS

Labor Code Cases, Total of all Offices, October 19, 1933 - May 27, 1935 a/

Source of Complaints	Total Cases	Adjusted	No Violation	Dropped	Pending
All sources	118,677	50,240	47,312	14,663	6,462
Anonymous	7,846	2,021	4,308	1,141	376
Employee (status unknown)	8,209	2,928	3,763	1,179	339
Present employee	27,794	13,122	10,412	2,759	1,501
Former employee	29,880	13,983	10,018	3,545	2,334
Competitor	2,959	939	1,586	331	103
Office staff	14,388	7,885	5,029	885	589
Code Authority	6,288	2,288	2,639	912	449
State agency	1,245	501	512	152	80
Gov't purchasing agency	317	142	137	8	30
Labor union	4,085	1,609	1,879	423	174
Trade association	781	272	389	87	33
Other sources	13,137	4,399	6,456	1,877	405
Source unknown	1,748	151	184	1,364	49

a/ The offices were officially active from October 19, 1933, to May 27, 1935. Also included are 14 adjusted, 57 no violation, and 43 dropped cases accepted prior to October 19, 1933

Prepared by:

Statistical Section,
Field Division, NRA
February 12, 1936

TABLE 9 - A

NRA STATE OFFICE COMPLAINT SUBMISSIONS

SIZE OF ESTABLISHMENT - INDEPENDENTLY OPERATED ESTABLISHMENTS

Labor Code Cases, Total of First and Successive Complaints against Respondents, all Offices, October 19, 1933-May 27, 1935 a/

Number of employees in unit	Total	Adjusted	No Violation	Dropped	Pending
Total	114,241	48,091	45,510	14,338	6,302
No employees	1,716	539	1,070	86	21
One employee	5,510	2,832	1,950	503	225
2-5 employees	25,259	12,789	8,819	2,327	1,324
6-10 "	15,048	7,319	5,592	1,216	921
11-25 "	11,371	5,372	4,348	911	740
26-50 "	5,788	2,577	2,272	512	427
51-100 "	3,377	1,416	1,437	294	230
101-200 "	2,222	918	969	175	160
201-500 "	1,651	643	802	110	76
501-1000 "	462	162	260	23	17
1001-5000"	410	92	283	21	14
Over 5000"	168	123	36	6	3
Not reported	41,279	13,309	17,672	8,154	2,144

a/ The offices were officially active from October 19, 1933, to May 27, 1935.

Prepared by:
Statistical Section
Field Division, NRA
March 16, 1936

TABLE 10

N.R.A. STATE OFFICE COMPLAINT STATISTICS
TIME ELAPSED BETWEEN FIRST ACTION AND CLOSING

Labor Code Cases, Total of all Offices, October 19, 1933 - May 27, 1935 a/

Time elapsed between first action and closing	Total	Adjusted	No Violation	Dropped
Total	112,215	50,240	47,312	14,663
Closed on day of receipt	6,609	3,968	2,339	302
1-6 days	19,414	9,574	8,571	1,269
7-13 days	14,687	6,629	6,798	1,260
14-20 days	11,454	5,120	5,398	936
21-30 days	13,632	6,065	6,225	1,342
31-45 days	12,485	5,567	5,616	1,302
46-90 days	17,999	7,827	7,413	2,759
91-182 days	9,892	3,942	3,603	2,347
6-12 months	3,687	1,293	1,069	1,325
13-18 months	151	59	24	68
Over 18 months	15	13	1	1
Not reported	2,190	183	255	1,752

a/ The offices were officially active from October 19, 1933 to May 27, 1935. Also included are 14 adjusted, 57 no violation and 43 dropped cases accepted prior to October 19, 1933.

Prepared by:
Statistical Section,
Field Division, NRA
February 12, 1936

TABLE II

NRA STATE OFFICE COMPLAINT STATISTICS
Labor Cases Docketed During The Year 1933

TOTAL	4283	(1347 adjusted, a/2272 no violation, 652 dropped, 12 pending)
Maine	13	
New Hampshire	7	
Vermont	1	
Massachusetts	252	
Rhode Island	15	
Connecticut	3	
Albany	--	
Buffalo	50	
New York City	862	
New Jersey	1	
Philadelphia	469	(80 adjusted, 339 no violation, 40 dropped, 10 pending)
Pittsburg	79	(48 adjusted, 31 no violation)
Delaware	--	
Maryland	7	
District of Columbia	56	(all cases reported adjusted)
Virginia	56	(48 reported adjusted, 31 no violation)
North Carolina	13	
South Carolina	23	
Georgia	83	
Florida	25	
Tennessee	58	
Alabama	126	(7 reported adjusted, 118 no violation)
Mississippi	9	
Louisiana	37	
Michigan	283	
Ohio	204	
West Virginia	10	
Kentucky	40	
Wisconsin	44	
Indiana	109	
Illinois	351	
Missouri	130	
Minnesota	72	
Iowa	28	
North Dakota	--	
South Dakota	--	
Nebraska	13	
Kansas	23	
Wyoming	11	
Colorado	5	
Arkansas	--	
Oklahoma	6	

a/ Great majority adjusted before Development of Restitution System For Code Complaints.

TABLE II (Continued)

Dallas	57
Houston	70
New Mexico	---
Montana	---
Idaho	---
Utah	---
Nevada	---
Arizona	---
Washington	191
Oregon	44
Los Angeles	211
San Francisco	77

Table 11-A

N.R.A. STATE OFFICE COMPLAINT STATISTICS
MONTH OF RECEIPT OF COMPLAINTS

Labor Code Cases, Total of all Offices, October 19, 1933 - May 27, 1935 a/

Month of receipt	Total number of cases	Adjusted	No violation	Dropped	Pending
Total	118,677	50,240	47,312	14,663	6,462
1933					
August-December	4,283	1,347	2,272	652	12
Prior to Oct. 19	114	14	57	43	---
August	9	1	7	1	---
September	27	3	10	14	---
October	227	57	108	62	---
November	1,679	485	965	222	7
December	2,341	801	1,182	353	5
1934					
January-June 15	36,505	14,777	16,432	4,980	316
January	3,703	1,473	1,807	403	20
February	4,475	1,838	2,022	597	18
March	8,092	3,106	3,784	1,154	48
April	8,186	3,285	3,712	1,087	102
May	8,334	3,438	3,589	1,226	81
June 1 - June 15	3,715	1,637	1,518	513	47
June 16 - Dec. 31	49,346	22,704	19,221	5,740	1,681
June 16 - June 30	3,624	1,577	1,475	513	59
July	8,964	4,031	3,607	1,176	150
August	9,971	4,363	4,133	1,266	209
September	7,064	3,221	2,839	789	215
October	7,589	3,664	2,878	748	299
November	6,306	3,081	2,248	647	330
December	5,828	2,767	2,041	601	419
1935					
January 1 - May 27	27,362	11,310	9,366	2,190	4,446
January	7,138	3,097	2,736	691	614
February	6,091	2,586	2,349	533	623
March	5,632	2,219	1,862	658	893
April	5,044	2,026	1,661	222	1,135
May 1 - May 27	3,457	1,432	739	86	1,181
Not reported	1,181	52	21	1,101	7

a/ The Offices were officially active from October 19, 1933 to May 27, 1935.

Prepared by:

Statistical Section,
Field Division, NRA
February 20, 1936

9839

TABLE 12

NRA STATE OFFICE COMPLAINT STATISTICS

SPECIAL TABLE OF COMPLAINTS AND METHOD OF DISPOSITION BY TIME

New York City

	TOTAL	Prior to Oct. 19, 1933	Total for 1933	Aug.	Sept.	Oct.	Nov.	Dec.	Jan. to June 15, 1934
Total	13,718	34	862	2	8	66	320	467	6,332
Adjusted	2,278	1	54	-	-	1	15	38	990
No Violation	5,552	11	426	1	2	33	162	228	3,293
Dropped	5,056	22	382	1	6	32	143	200	1,960
Pending	832	8 -	1	-	-	-	-	1	89

	Jan. 1934	Feb.	Mar.	April	May	June 1st to June 15, 1934	June 16 to Dec. 31, 1934
Total	488	814	1494	1,501	1,529	506	4,162
Adjusted	59	102	127	222	250	130	904
No Violation	282	458	848	833	682	190	1,498
Dropped	145	247	503	426	471	168	1,393
Pending	2	7	16	20	26	18	367

	June 15 to July 1, 1934	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan to May 1935
Total	509	897	880	523	575	373	400	1,443
Adjusted	92	157	161	94	160	109	131	330
No Violation	187	384	326	197	190	116	98	334
Dropped	202	306	326	194	164	111	90	404
Pending	28	50	67	38	61	42	81	375

	Jan. 1935	Feb.	Mar.	April	May 1935
Total	451	268	413	218	93
Adjusted	107	70	52	62	39
No Violation	115	76	78	52	13
Dropped	123	60	198	15	8
Pending	106	62	85	89	33

9839

LOUISIANA (Total Case Count 1573 for Oct. 19, 1933 to May 27, 1935)

	Dec. 1933	Jan. 1934	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.
Adjusted	2	6	14	13	25	56	25	49	55	17
No Violation	20	40	60	101	69	77	56	50	46	15

	Oct.	Nov.	Dec.	Jan. 1935	Feb.	Mar.	Apr.	May 1935
Adjusted	47	54	32	40	19	19	24	3
No Violation	77	42	48	36	19	35	28	4

MINNESOTA (Total Case Count 3049 for Oct. 19, 1933 to May 27, 1935)

	Jan. 1934	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov
Adjusted	59	45	133	139	242	184	248	263	172	151	103
No Violation	10	18	44	58	63	64	79	76	56	38	32

	Dec. 1934	Jan. 1935	Feb.	Mar.	Apr.	May 1935
Adjusted	104	93	94	77	55	41
No Violation	12	18	31	24	18	17

NEVADA (Total Case Count 646 for October 19, 1933 to May 27, 1935)

	July 1934	Aug.	Sept.	Oct.	Nov.	Dec.	Jan. 1935	Feb.	Mar.	Apr.	May 1935
Adjusted	78	73	44	75	49	26	26	16	25	25	4
No Violation	18	25	7	12	15	16	10	2	3	1	-

TABLE 13

NRA STATE OFFICES
LABOR COMPLAINTS ACTIVITY, BY CODE
(November 11, 1933 - May 27, 1935.)

Name of Codes	No. of Establishments	No. of Employees	Year of Compilation of data for columns 2 & 3	Date of Code Approval	Date of Earliest Complaint	Docketed	Adjusted	No Violation found	Bookkeeping Rejections	Dist. Atty. Fed.	Dist. Atty. State	Compliance Division or Reg. Office	O. A. in first instance (prior to June 16,1934)	NRA Insignia Removed by S. D.	On Hand May 27, 1935
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
TOTAL, ALL Codes	2156635	19560945			11/18/33	147170	76925	42498	9580	427	58	4325	2424	526	10407
Abrasive Grain	15	1500	'29	5/21/34	11/10/34	3	0	2	1	0	0	0	0	0	0
Academic Costume	25	1000	'33	2/19/34	4/21/34	6	2	4	0	0	0	0	0	0	0
Advertising Disp. Inst.	300	1500	'32	1/30/34	3/17/34	65	33	23	3	0	0	5	0	0	1
Advertising Dist.	2500	90000	'31	2/17/34	3/17/34	181	111	46	11	0	0	5	0	0	8
Advertising Specialty	300	7000	'33	10/31/33	11/11/33	70	36	23	2	0	0	4	0	0	5
Air Transport	1300	4900	'32	11/14/33	1/6/33	22	9	9	3	0	0	0	0	0	1
Alcoholic Bev. Imp.				7/17/34	11/22/34	6	2	1	0	0	0	0	0	0	3
Alcoholic Bev. Whlse.				5/22/34	2/10/34	466	261	93	11	0	0	20	0	0	81
All Metal Insect Screen				11/14/33	4/17/34	16	4	8	3	0	0	0	0	0	1
Alloy Casting	35	600	'33	1/30/34	5/25/35	1	0	1	0	0	0	0	0	0	
Alloys Industry	15	2700	'33	9/5/34	2/16/35	1	1	0	0	0	0	0	0	0	0
Aluminum	125	9600	'32	6/26/34	9/15/34	4	2	0	0	0	0	0	0	0	
American Glassware	105	20700	'31	1/16/34	2/17/34	71	39	15	5	0	0	5	0	0	
American Match	19	3400	'31	12/30/33	1/27/34	16	9	6	1	0	0	0	0	0	0
American Petroleum	28	2100	'33	11/2/33	12/23/33	195	103	75	5	0	0	1	0	0	11
Animal Glue	15	1500	'33	8/23/34	10/27/34	2	1	1	0	0	0	0	0	0	0
Animal Soft Hair	10	45	'33	2/2/34	3/17/34	1	1	0	0	0	0	0	0	0	0
Anti-Friction Bearing	—	6600	'32	11/27/33	12/23/33	15	6	8	0	0	0	0	0	0	1
Anti-Hog Colera	—	1200	'29		5/5/34	5	3	1	0	0	0	1	0	0	0
Arch. Orn. Miso. Iron				11/20/34	2/16/35	5	1	1	1	0	0	0	0	0	2
Art Needlework	100	4000	'33	3/16/34	6/2/34	14	5	8	1	0	0	0	0	0	0
Artificial Flower & Feather	191	3200	'29	9/18/33	11/18/33	444	252	91	50	1	0	3	0	0	47
Artificial Limb	252	2000	'33	8/28/34	10/13/34	6	3	1	1	0	0	0	0	0	1
Asbestos	62	7200	'31	11/1/33	1/27/34	26	7	12	2	0	0	0	0	0	5
Asphalt Shingle & Roofing	83	4100	'31	11/6/33	11/11/33	16	12	1	0	0	0	1	0	0	2
Asphalt & Mastic Tile	7	400	'30	12/7/33	2/10/34	4	3	1	0	0	0	0	0	0	0
Assembled Watch	—	180	'29	8/27/34	10/1/34	5	0	2	2	0	0	0	0	0	1
Auction Loose Leaf Tobacco	—	11500	'32	11/5/34	8/4/34	17	8	5	2	0	0	0	0	0	2
Automatic Sprinkler	15	2000	'31	10/9/33	11/18/33	13	8	4	1	0	0	0	0	0	0
Automotive Chemical Spec.	61	1200	'33	9/28/34	3/2/35	1	1	0	0	0	0	0	0	0	0
Auto Manufacturing (total)	1390	447500	'29	8/26/33	11/18/33	189	70	105	4	0	0	7	0	0	3
Auto Mfg. (basic)					11/18/33	188	70	104	4	0	0	7	0	0	3
Funeral Vehicle					3/3/34	1	0	1	0	0	0	0	0	0	0
Auto Parts & Equipment	319	79000	'32	11/8/33	11/25/33	597	333	190	21	1	0	10	0	0	42
Auto Rebuilding & Refin.				Sub. 1/18/35	2/16/35	63	23	11	1	0	0	1	0	0	27
Automotive Shop Equip.				11/30/34	4/13/35	11	5	0	0	0	0	0	0	0	6

(1) Name of Code	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
Baking	25000	150000	'33	5/28/34	6/2/34	3834	1786	1167	330	5	0	140	0	0	406
Ball Clay Production	6	300	'33	1/16/34	1/16/34	3	1	2	0	0	0	0	0	0	0
Band Instrument				2/10/34	5/5/34	5	3	2	0	0	0	0	0	0	0
Bankers	25330	300000	'29	10/3/33	11/18/33	585	167	126	277	0	0	3	0	0	12
Bank & Security Vault	5	1100	'33	5/1/34	10/13/34	3	1	2	0	0	0	0	0	0	0
Barber Shop Trade		200000	'29	4/19/34	5/5/34	2354	1671	473	156	3	0	9	0	33	9
Batting & Padding	55	7000	'29	5/5/34	5/26/34	14	9	0	2	0	0	1	0	0	2
Beauty & Barber Shop Mech. Eq.	40	2500	'32	2/16/34	3/17/34	25	15	1	1	0	0	6	0	0	2
Bedding Manufacturing	781	13600	'31	1/23/34	2/3/34	250	130	74	11	0	0	7	0	0	28
Beet Sugar	—	8900	'29	10/27-33	12/16/33	54	24	8	2	0	0	15	0	0	5
Beverage Disp. Equip.	54	2800	'29	3/16/34	5/5/34	49	18	24	2	0	0	1	0	0	4
Bias Tape	19	600	'33	5/23/34	1/7/35	1	1	0	0	0	0	0	0	0	0
Bicycle Manufacturing	13	1200	'31	5/21/34	10/1/34	2	1	0	0	0	0	1	0	0	0
Bituminous Coal	4976	458,800	'29	1/18/33	11/11/33	541	55	81	7	0	0	7	387	0	4
Bituminous Road Material	584	1800	'33	10/26/34	1/19/35	3	1	2	0	0	0	0	0	0	0
Bleached Shellac	12	400	'33	4/21/34	10/13/34	1	1	0	0	0	0	0	0	0	0
Blouse & Skirt	161	2900	'31	12/30/33	1/20/34	416	216	121	21	0	0	16	0	0	42
Blue Print & Photo Print	450	5500	'34	12/18/34	2/2/35	7	2	4	0	0	0	0	0	0	1
Boat Building & Boat Rep.	3000	16300	'31	4/24/34	6/2/34	34	12	15	0	0	0	1	0	0	6
Bobbin & Spool	31	1700	'33	5/3/34	6/2/34	6	3	1	0	0	0	0	0	0	2
Boiler Manufacturing	150	6400	'33	10/3/33	11/25/33	50	24	23	1	0	0	0	0	0	2
Book Publishing & Printing	340	17000	'33	10/1/34	2/2/35	3	0	0	1	0	0	0	0	0	2
Boot & Shoe	1341	205,600	'29	10/3/33	11/11/33	2265	895	840	213	8	0	35	0	0	274
Bottling Mach. & Equip.	30	1800	'33	4/4/34	8/4/34	3	2	0	0	0	0	0	0	0	1
Bottled Soft Drink	7000	84000	'31	6/7/34	6/23/34	290	132	103	16	0	0	5	0	0	34
Bowling & Billiard Opera.	40000	136,000	'33	3/17/34	4/14/34	154	69	50	11	0	0	11	0	0	13
Brewing	—	30500	'33	3/22/34	1/13/34	373	186	96	22	4	0	10	2	0	53
Broom Manufacturing	334	4100	'31	6/18/34	7/21/34	67	20	26	6	0	0	7	0	0	8
Brush Manufacturing	254	5900	'31	3/23/34	3/23/34	42	21	14	3	0	0	0	0	0	4
Buff & Pol. Comp.	23	500	'33	11/4/33	2/10/34	6	2	4	0	0	0	0	0	0	0
Buff & Pol. Wheel	23	500	'33	11/14/33	4/28/34	3	3	0	0	0	0	0	0	0	0
Builders Supplies	—	50000	'33	10/3/33	11/11/33	224	104	88	10	0	0	7	0	0	15
Burlesque Theat.	40	4000	'33	3/20/34	3/31/34	45	19	12	4	1	2	2	0	0	5
Business Furniture Stor. (total)	59	7000	'33	11/4/33	11/18/33	49	18	15	7	0	0	3	0	0	6
Bus. Furn. Stor. (basic)					11/18/33	48	18	15	7	3	0	3	0	0	5
Fire Resistive Save					7/23/34	1	0	0	0	0	0	0	0	0	1
Candle Manufacturing	23	700	'31	2/20/34	5/25/34	6	2	2	0	0	0	0	0	0	2
Candlewick Bedspread	—	15000	'29	6/1/34	6/27/35	5	1	2	1	0	0	0	0	0	1
Candy Manufacturing	800	41000	'33	6/11/34	6/30/34	380	138	159	16	0	0	19	0	0	48
Can Manufacturing	232	31,500	'29	12/15/33	7/21/34	11	0	0	11	0	0	0	0	0	0
Canned Salmon	100	24500	'33	5/15/34	9/1/34	120	19	40	61	0	0	0	0	0	0
Canning & Pack. Mach.	65	1200	'32	10/31/33	11/25/33	12	4	8	0	0	0	0	0	0	0
Canning	2500	80200	'31	5/29/34	6/9/34	545	100	212	38	1	0	21	0	0	83
Canvas Goods	908	5400	'31	3/16/34	4/7/34	122	66	39	1	0	0	7	0	0	9
Cap & Cloth Hat	576	3500	'31	6/5/34	6/23/34	77	26	26	5	0	0	7	0	0	13
Cap & Closure	25	2900	'29	10/20/33	11/18/33	22	17	4	0	0	0	0	0	0	1
Carbon Black	19	1200	'32	2/8/34	3/17/34	12	3	9	0	0	0	0	0	0	0
Carpet & Rug	61	22900	'31	1/12/34	3/10/34	47	20	18	2	0	0	0	0	0	7
Cast Iron Boiler	40	10700	'31	3/3/34	2/24/34	12	7	4	0	0	0	0	0	0	1
Cast Iron Soil Pipe				9/7/33	11/25/33	8	4	1	1	0	0	0	0	0	2
Cast Iron Pressure Pipe	15	5000	'33	12/30/33	2/17/34	9	6	2	1	0	0	0	0	0	0

(1) Name of Code	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
Celluloid Button	40	1600	'33	4/20/34	5/26/34	29	4	11	3	0	0	0	0	0	11
Cement	174	33400	'29	11/21/33	12/30/33	55	27	23	1	0	0	1	0	0	3
Chemical Manufacturing	500	53300	'31	2/10/34	3/10/34	171	51	71	8	0	1	27	0	0	13
Chewing Gum	35	2100	'31	1/30/34	3/31/35	4	2	0	0	0	0	1	0	0	1
Chilled Car Wheel	23	3100	'33	2/17/34	3/31/34	4	2	1	0	0	0	0	0	0	1
Chinaware & porcelain	40	1500	'33	11/27/33	12/16/33	41	21	10	2	0	0	1	0	0	7
Cigar Container	92	3800	'31	11/27/33	1/13/34	23	12	8	0	0	0	0	0	0	3
*Cigar Manufacturing	7100	58300	'32	6/19/34	6/30/34	106	34	32	6	19	0	6	0	0	9
Cigarettes, Snuff & Tob.	140	32000	'33	Sub. 1/18/35	3/30/35	3	1	2	0	0	0	0	0	0	0
Cinders, Ashes & Scav. (annulled)				12/30/33	1/27/34	166	82	50	26	0	0	8	0	0	0
Clay Drain Tile	333	3600	'29	3/24/34	4/14/34	8	3	3	1	0	0	0	0	0	0
Clay & Shale Roofing	40	1200	'32	4/6/34	5/19/34	3	1	2	0	0	0	0	0	0	0
Cleaning & Dyeing	4600	50000	'31	11/8/33	11/18/33	2801	1506	704	258	11	1	109	11	68	133
Clock Manufacturing	30	12000	'34	Sub. 1/18/35	4/27/35	3	1	1	0	0	0	0	0	0	1
Coal Dock	—	5000	'33	3/16/34	4/7/34	9	4	2	1	0	0	0	0	0	2
Coat & Suit	2150	49900	'29	8/4/33	11/11/33	352	180	82	8	0	0	0	76	0	6
Coated Abrasives	14	1800	'29	12/30/33	4/28/34	4	1	2	0	0	0	0	0	0	1
Cocoa & Chocolate	55	5700	'31	6/15/34	7/21/34	35	18	9	1	0	0	0	0	0	7
Coffee	920	8700	'31	2/6/34	2/24/34	67	43	17	4	0	0	0	0	0	3
Coin Operated Mach.	—	12000	'33	1/23/34	2/17/34	30	13	10	1	0	0	3	0	0	3
Coll. Mfg. Door to Door	40	2800	'32	8/3/34	9/1/34	16	3	11	0	0	0	0	0	0	2
Commercial Aviation	215	3800	'33	8/28/34	10/13/34	2	0	2	0	0	0	0	0	0	0
Comm. Breeder & Hatch.	—	2500	'29		2/17/34	122	57	43	4	0	0	2	0	0	16
Commercial Fixtures				5/3/34	5/26/34	140	33	77	18	0	0	2	0	0	10
Comm. Refrigeration				12/23/34	1/13/34	65	34	23	3	0	0	1	0	0	4
Comm. Veh. Body	364	5500	'31	7/16/34	8/18/34	53	24	14	6	0	0	2	0	0	7
Compressed Air				10/11/33	1/13/34	6	6	0	0	0	0	0	0	0	0
Concrete Masonry	3500	8000	'32	11/27/33	1/13/34	39	20	12	1	0	0	1	0	0	5
Concrete Pipe Mfg.	170	1200	'33	11/30/33	3/3/34	23	15	5	1	0	0	0	0	0	2
Construction (total	144,000	2,400,000	'29	1/31/34	2/24/34	9196	3875	2790	1134	14	1	310	0	0	1072
Construction (basic)					2/24/34	4460	2120	1195	780	2	0	122	0	0	241
Building Granite					1/7/35	6	6	0	0	0	0	0	0	0	0
Cement Gun Contr.					10/27/34	2	1	0	0	0	0	0	0	0	1
Construction News Serv.					2/16/35	1	0	0	0	0	0	0	0	0	1
Electrical Cont.					5/5/34	427	151	166	37	1	0	21	0	0	51
Elevator Mfg.					5/5/34	10	3	5	1	0	0	0	0	0	1
General Cont'g.					4/14/34	891	344	312	70	2	0	36	0	0	127
Heat. Pip. & Air Conditioning					9/1/34	168	48	72	4	0	0	11	0	0	33
Highway Contr.					5/11/35	1	0	0	0	0	0	0	0	0	1
Insulation Contr.					9/1/34	14	5	7	0	0	0	0	0	0	2
Kalamein Contr.					6/30/34	2	1	0	0	0	0	0	0	0	1
Mason Contr.					9/1/34	106	40	43	3	0	0	1	0	0	19
Marble Contr.					5/11/35	1	1	0	0	0	0	0	0	0	0
Painting, Paperhng. &Decor.					4/14/34	745	252	232	40	1	0	26	0	0	194
Plastering & Lath. Contr.					9/1/34	475	169	157	29	5	1	18	0	0	96
Plumbing Contr.					9/1/34	1513	577	466	153	3	0	62	0	0	252
Resilient Floor.					7/21/34	16	6	9	0	0	0	0	0	0	1
Roofing & Sheet Metal					9/1/34	305	138	107	15	0	0	11	0	0	34
Terrazzo & Mosaic Contr.					9/1/34	8	4	3	1	0	0	0	0	0	0
Tile Contr.					9/1/34	30	8	13	1	0	0	2	0	0	6
Wood Floor Contr.					12/22/34	15	1	3	0	0	0	0	0	0	11

NRA State Office Complaints

TABLE 13

(1) Name of Code	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
Construc. Mach. Dist.	280	4500	'32	1/23/34	4/21/34	15	6	7	1	0	0	0	0	0	1
Cooking & Heat. Appl.	197	9500	'31	1/30/34	2/17/34	77	36	22	9	0	0	7	0	0	3
Copper, Brass, Bronze & Related Alloys				8/13/34	3/16/35	5	0	1	1	0	0	0	0	0	3
Copper & Brass Mill Prod.	24	24200	'33	11/2/33	11/25/33	39	23	12	0	0	0	0	0	0	4
Copper Industry	18	16200	'33	4/21/34	4/12/34	7	2	0	0	0	0	4	0	0	1
Cordage & Twine	24	4000	'33	2/21/34	3/10/34	14	5	7	2	0	0	0	0	0	0
Cork				1/12/34	2/10/34	11	5	4	0	0	0	0	0	0	2
Corn Cob Pipe	6	200	'32	8/17/34	9/15/34	2	0	1	0	0	0	0	0	0	1
Corrugated Solid Fibre Shipping Container	200	12000	'33	2/1/34	3/3/34	38	25	8	3	0	0	0	0	0	2
Corset & Brassiere	213	13700	'29	8/14/33	11/11/33	95	49	24	8	0	0	7	0	0	7
*Cotton Textile	1281	424,900	'29	7/9/33	11/11/33	800	169	102	11	0	0	39	478	0	1
Cotton Cloth Glove		7000	'31	12/20/33	1/20/34	59	27	24	1	1	0	1	0	0	5
*Cotton Garment		165,000	'33	11/17/33	11/18/33	1873	1260	423	73	8	0	78	18	0	13
Cotton Ginning Machinery		2000	'29	7/16/34	9/15/34	5	2	3	0	0	0	0	0	0	0
Cotton Pickery	20	300	'33	5/17/34	9/15/34	4	3	1	0	0	0	0	0	0	0
Country Grain Elevator		24600	'29	9/25/34	5/26/34	71	34	26	3	0	0	0	0	0	6
Covered Button	100	700	'33	3/16/34	4/14/34	53	28	9	2	0	0	0	0	0	14
Crown Manufacturing		1600	'29	11/1/33	8/18/34	2	0	2	0	0	0	0	0	0	0
Crushed Stone, Sand & Gravel	2205	40700	'29	11/10/33	11/25/33	607	329	185	25	9	0	26	0	0	42
Curled Hair & Horse Hair	33	550	'33	5/14/34	6/30/34	2	0	2	0	0	0	0	0	0	0
Cylindrical Liquid Type Paper Cont.	200	700	'33	2/1/34	3/24/34	1	1	0	0	0	0	0	0	0	0
Dental Goods & Equip.	84	3900	'31	7/13/34	8/4/34	14	10	3	0	0	0	0	0	0	1
Dental Laboratory	3400	10000	'29	1/22/34	2/10/34	194	96	52	14	0	1	12	0	0	19
Die Casting		7000	'29	3/8/34	3/24/34	15	4	9	0	0	0	0	0	0	2
Diesel Engine				8/1/34	10/27/34	3	1	0	1	0	0	0	0	0	1
Distilled Spirits Rect		4800	'34	3/21/34	12/23/33	84	39	22	10	0	0	1	0	0	12
Distilled Spirits Rect.				5/3/34	1/16/34	90	51	16	7	0	0	2	0	0	14
Dog Food	105	2000	'33	5/31/34	6/9/34	14	7	3	1	0	0	0	0	0	3
Domestic Freight For.	30	5100	'33	12/18/33	1/6/33	93	46	29	6	1	0	5	0	0	6
Dowel Pin	29	100	'29	5/22/34	11/22/34	3	0	1	0	0	0	0	0	0	2
Drapery & Upholst. Trim'g.				11/10/34	3/10/34	45	17	8	10	0	5	1	0	0	4
*Dress Manufacturing	2080	79700	'31	10/31/33	11/11/33	851	377	186	15	10	0	20	236	0	7
Drop Forging		5400	'32	5/10/34	6/30/34	7	3	4	0	0	0	0	0	0	0
Dry & Polishing Mop	35	1900	'32	12/15/33	10/13/34	1	1	0	0	0	0	0	0	0	0
Dry Color	68	2500	'33	4/25/34	5/19/34	5	3	1	0	0	0	1	0	0	0
Dry Goods Cotton Batting	22	1000	'33	4/21/34	1/7/35	1	0	1	0	0	0	0	0	0	0
Earthenware Mfg.	45	2800	'33	3/8/34	3/8/34	27	13	9	0	0	0	3	0	0	2
Electric & Neon Sign		14000	'33	8/24/34	9/29/34	174	34	103	14	0	0	2	0	0	21
Electrical Mfg.	1802	328,700	'29	8/4/33	11/11/33	948	451	363	29	2	0	30	2	0	71
Electric Storage & Wet Primary Battery	185	11300	'29	10/3/33	11/11/33	121	72	39	5	0	0	3	0	0	2
Electretype & Sterotype	300	6000	'29	12/23/33	1/27/34	49	30	9	0	4	0	4	0	0	2
End Grain Strip Wood Block	9	600	'33	12/30/33	4/21/34	3	2	0	0	0	0	1	0	0	0
Envelope	162	8900	'32	1/23/34	2/10/34	36	22	9	4	0	0	0	0	0	1
Excelsior & Ex. Prods.	66	1200	'29	12/7/33	1/13/34	17	3	6	1	0	0	4	0	0	3
Fabricated Metals		413,100	'29	11/2/33	11/18/33	1337	641	372	65	0	0	40	0	0	119

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Fan Blower		2000	'32	1/30/34	12/8/34	1	0	1	0	0	0	0	0	0	0
Farm Equipment	293	41700	'29	10/3/33	11/11/33	97	55	26	5	0	1	3	0	0	7
Feed Manufacturing		8400	'31		6/9/34	144	48	56	8	0	0	6	0	0	26
Fertilizer	638	20900	'29	10/31/33	11/25/33	80	33	39	0	0	0	1	0	0	7
Fibre & Metal Work Covered Cloth Button	5	200	'32	3/17/34	3/31/34	11	7	4	0	0	0	0	0	0	0
Fibre Can & Tube	55	2500	'33	2/24/34	4/14/34	11	4	4	3	0	0	0	0	0	0
Fibre Wall Board	13	2000	'32	3/10/34	6/9/34	2	1	1	0	0	0	0	0	0	0
Fire Extinguishing Appl.	25	600	'31	11/4/33	12/23/33	8	3	4	0	0	0	0	0	0	1
Fisheries (total)		209,000	'29	2/26/34	3/17/34	351	155	131	16	0	0	22	0	0	27
Fisheries (basic)				2/26/34	3/17/34	291	122	122	15	0	0	9	0	0	23
Blue Crab				4/27/34	6/9/34	13	11	0	0	0	0	0	0	0	2
Cal. Sardine Process				12/11/34	10/27/34	4	2	1	0	0	0	0	0	0	1
Fresh Oyster				3/10/34	6/9/34	43	20	8	1	0	0	13	0	0	1
Fishing Tackle	40	1800	'29	8/19/33	1/13/34	35	19	12	0	0	0	0	0	0	4
Flag Manufacturing		500	'29	3/21/34	12/8/34	3	3	0	0	0	0	0	0	0	0
Flat Glass Manufacturing		8000	'33	12/22/34	3/16/35	6	0	1	0	0	0	0	0	0	5
Flavoring Ext. Prod.	425	2500	'33	9/7/34	10/27/34	10	5	1	0	0	0	0	0	0	4
Floor Machinery	34	300	'33	10/17/34	12/22/34	3	2	1	0	0	0	0	0	0	0
Floor Wall & Clay Tile		6100	'31	11/4/33	1/6/34	26	16	7	0	0	0	0	0	0	3
Fluted Cup Pan Liner & Lace Paper	24	700	'32	2/17/34	3/17/34	7	4	3	0	0	0	0	0	0	0
Food Dish Pulp & Paper Plate	30	2100	'33	2/1/34	5/19/34	4	3	0	0	0	0	0	0	0	1
Folding Paper Box	370	15000	'33	12/30/33	1/30/34	130	53	39	5	0	0	9	0	0	24
Foundry Equipment		500	'33	2/6/34	6/16/34	1	1	0	0	0	0	0	0	0	0
Foundry Supply	52	400	'31	12/18/33	4/14/34	5	3	1	0	0	0	0	0	0	1
Fresh Water Pearl Button		4000	'29	3/26/34	3/31/34	68	39	19	6	1	0	0	0	0	3
Fullers Earth Processing	22	1000	'29	3/23/34	9/15/34	3	2	0	0	0	0	0	0	0	1
Funeral Service	22500	26000	'30	4/4/34	5/5/34	218	95	92	11	0	0	3	0	0	17
Funeral Supply	650	11600	'33	11/4/33	1/20/34	131	63	39	8	1	0	7	0	0	13
Fur Dealing Trade		3000	'29	4/4/34	8/28/34	40	12	18	6	0	0	0	0	0	4
Fur Dress & Fur Dye		5200	'29	12/18/33	1/13/34	101	41	30	12	0	0	1	0	0	17
Fur Manufacturing	2800	20000	'29	5/19/34	6/2/34	437	154	201	26	0	1	10	0	0	45
Fur Trapping Contr.				12/15/33	2/17/34	2	0	2	0	0	0	0	0	0	0
Fur Wholesale				6/9/34	7/21/34	4	3	1	0	0	0	0	0	0	0
Furniture Manufacturing	3148	127,600	'31	12/7/33	12/23/33	1088	565	313	50	3	1	35	0	0	121
Furniture Floor Wax & Polish	250	2500	'32	1/23/34	4/28/34	6	3	2	0	0	0	0	0	0	1
Garter, Suspender & Belt	71	3300	'31	11/4/33	11/25/33	48	23	21	2	1	0	1	0	0	0
Gas Appliance	305	16400	'31	11/27/33	1/20/34	89	55	16	4	1	0	6	0	0	7
Gas Cock	12	450	'33	10/31/33	12/2/33	1	1	0	0	0	0	0	0	0	0
Gasoline Pump		3900	'29	9/18/33	2/24/34	9	4	2	0	0	0	0	0	0	3
Gear Manufacturing		3900	'32	11/4/33	1/2/34	8	4	3	0	0	0	0	0	0	1
Glass Container	65	19100	'31	10/3/33	11/11/33	121	79	32	2	0	0	0	0	0	8
Glazed & Fancy Paper	50	1500	'33	2/1/34	3/3/34	13	4	9	0	0	0	0	0	0	0
Grain Exchanges		50000	'33		6/30/34	8	4	3	1	0	0	0	0	0	0

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Graphic Arts (total)	17900	274,700	'29	2/17/34	3/3/34	3520	1549	1090	379	15	10	126	23	0	328
Graphic Arts (basic)					3/3/34	2620	1303	727	304	12	10	77	13	0	174
Advertising Typo.					10/27/34	1	0	1	0	0	0	0	0	0	0
Bank Note Eng. & Ptg.					1/19/35	2	0	0	1	0	0	1	0	0	0
Book Manufacturing					9/18/34	25	6	12	3	0	0	1	0	0	3
*Commercial Relief Ptg.					9/15/34	543	137	202	40	3	0	39	0	0	122
*Daily Newspaper Pub.					3/3/34	244	86	116	21	0	0	3	10	0	8
Gravure Printing					9/15/34	2	0	2	0	0	0	0	0	0	0
Greeting Cards					4/13/35	1	0	0	1	0	0	0	0	0	0
Labels					10/13/34	4	0	0	4	0	0	0	0	0	0
Lithographic Printing					12/22/34	11	1	2	2	0	0	0	0	0	6
Music Printing					10/13/34	1	0	1	0	0	0	0	0	0	0
Non Met. Newspaper					9/15/34	26	5	14	1	0	0	1	0	0	5
Periodical Pub. & Ptg.					9/15/34	11	2	5	0	0	0	1	0	0	3
Posters					10/27/34	1	1	0	0	0	0	0	0	0	0
Standardized Stationery & Business Forms					10/13/34	4	2	0	0	0	0	1	0	0	1
Securities Eng. & Ptg.					4/27/35	1	0	0	0	0	0	0	0	0	1
Steel & Copperplate Eng.					9/15/34	6	1	2	2	0	0	1	0	0	0
Trade Binding, Ruling & Paper					10/27/34	9	3	4	0	0	0	1	0	0	1
Trade Mount. & Fin.					3/16/35	3	1	0	0	0	0	0	0	0	2
*Trade Typesetting					11/10/34	5	1	2	0	0	0	0	0	0	2
Gray Iron Foundry	1600	53500	'33	11/10/34	3/3/34	215	109	71	3	0	0	11	0	0	21
Grinding Wheel	36	2100	'31	9/14/34	2/24/34	8	4	3	0	0	0	0	0	0	1
Gummed Label & Emb. Seal	75	1100	'33	2/17/34	4/14/34	8	4	3	0	0	0	0	0	0	1
Gumming	28	800	'32	2/17/34	5/12/34	4	1	1	1	0	0	1	0	0	0
Gypsum	53	7000	'29	5/7/34	6/30/34	5	2	0	0	0	0	1	0	0	2
Hair & Jute Felt	14	2000	'29	10/31/33	4/14/34	13	6	4	1	0	0	2	0	0	0
Hair Cloth	13	400	'31	12/15/33	3/31/34	6	3	2	0	0	0	0	0	0	1
Handkerchief	88	4800	'31	10/9/33	11/25/33	68	42	15	3	0	0	3	0	0	5
Hardwood Distillation	49	2800	'29	11/10/33	12/30/33	21	8	8	0	0	0	3	0	0	2
Hat Manufacturing	233	18500	'31	2/5/34	2/24/34	138	76	47	3	0	0	2	0	0	10
Hatters Fur Cutting	52	1900	'29	7/3/34	9/1/34	4	1	2	0	0	0	1	0	0	0
Heat Exchange				10/11/33	11/25/33	7	5	2	0	0	0	0	0	0	0
Hide & Leather Work Mach.	40	250	'33	3/6/34	11/10/34	1	0	1	0	0	0	0	0	0	0
Hosiery	730	129,500	'29	8/26/33	11/11/33	430	249	131	18	4	0	5	0	0	23
Hotel	13300	291,000	'29	7/17/33	11/25/33	5528	3094	1487	468	24	1	131	2	152	169
Household Goods, Stor.& Park.		60000	'33	4/19/34	4/28/34	225	109	59	13	0	0	13	0	0	31
Household Ice Refrig.				12/30/33	4/14/34	18	8	3	3	0	0	1	0	0	3
Ice Manufacturing	4110	32200	'29	10/3/33	11/11/33	1285	620	434	70	20	0	70	0	0	71
Ice Cream Cone	145	1500	'33	6/4/34	8/4/34	71	9	44	1	0	0	0	0	0	17
Imported Date Packing		4400	'32	7/22/34	3/10/34	12	7	3	0	0	0	2	0	0	0
Importing Trade	2300	23300	'29	3/23/34	8/18/34	30	8	7	4	0	0	0	0	0	11
Industrial Furnace	48	340	'33		5/19/34	10	4	2	2	0	0	0	0	0	2
Industrial Safety Equip.&Tr.	53	1100	'33	3/1/34	12/22/34	1	1	0	0	0	0	0	0	0	0

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Industrial Supplies	650	19900	'32	10/23/33	11/11/33	37	20	12	2	0	0	2	0	0	1
*Infants & Child Wear	683	68100	'33	3/27/34	4/7/34	246	79	64	13	0	0	78	0	0	12
Inland Water Carrier	21	1300	'32	2/6/34	3/31/34	3	1	2	0	0	0	0	0	0	0
Insecticide & Disinfectant	275	300	'32	4/6/34	5/12/34	9	8	0	0	0	0	0	0	0	1
Insulation Board	15	2000	'33	3/22/34	12/22/34	3	0	2	0	0	0	0	0	0	1
Investment Bankers				11/27/33	3/10/34	32	15	14	2	0	0	0	0	0	1
Iron & Steel	591	419,500	'29	8/17/33	12/6/33	356	163	161	13	0	0	4	5	0	10
Knitted Outerwear	757	28900	'29	12/18/33	12/30/33	270	137	87	13	0	0	9	0	0	24
Knitted Braiding & Wire Cov.	53	1100	'33	10/3/33	11/25/33	16	7	8	0	0	0	0	0	0	1
Lace Manufacturing	42	6900	'29	8/14/33	12/2/33	29	16	6	1	0	0	0	0	0	6
Ladder Manufacturing				11/8/33	11/25/33	17	9	5	2	0	0	0	0	0	1
Ladies Handbag	200	10,400	'29	3/14/34	3/21/34	207	82	61	17	0	0	13	0	0	34
Laundry Trade	6000	180,000	'33	2/16/34	12/2/33	1322	384	566	277	1	0	48	0	10	36
Laundry & Dry Clean. Mach.	82	3900	'29	10/3/33	12/30/33	7	4	3	0	0	0	0	0	0	0
Lead				5/24/34	2/1/34	16	7	7	1	0	0	1	0	0	0
Leather	471	49900	'29	9/7/33	11/25/33	336	169	135	0	0	0	7	0	0	25
Leather Cloth & Lacquered Fab.	506	7700	'29	5/3/34	7/14/34	7	3	1	1	0	0	1	0	0	1

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Leather & Woollen Knit Glove	227	8,900	'31	11/4/33	12/2/33	83	41	28	6	1	0	0	0	0	7
Legitimate Theatre				8/16/33	11/18/33	62	22	17	18	0	0	1	0	0	4
Licorice	500	2,500	'33	6/2/34	9/29/34	1	0	0	1	0	0	0	0	0	0
Light Sewing		5,000	'29	1/23/34	2/24/34	65	25	34	2	0	0	1	0	0	3
Lightning Rod Mfg.	15	100	'33	4/19/34	1/19/35	2	0	0	0	0	0	0	0	0	2
Lime	237	8,600	'29	10/3/33	12/2/33	50	19	21	2	0	0	3	0	0	5
Limestone				11/14/33	1/6/34	35	20	9	1	0	0	0	0	0	5
Linoleum Felt Base	21	4,800	'31	9/18/33	2/10/34	7	4	3	0	0	0	0	0	0	0
Linseed Oil		1,800	'31		9/29/34	1	0	1	0	0	0	0	0	0	0
Liquified Gas		2,000	'33	11/8/33	1/13/34	6	5	1	0	0	0	0	0	0	0
Loose Leaf Blank Book	350	6,500	'31	5/1/34	5/19/34	11	3	5	0	0	0	0	0	0	3
Luggage & Fancy Leather Goods	450	10,000	'30	10/3/33	11/18/33	298	153	83	20	0	0	11	0	0	31
Lumber & Timber	20,751	567,800	'29	8/19/33	11/18/33	3626	1555	1294	395	53	0	158	13	0	158
Live Poultry		1,300	'33		6/23/34	1	0	1	0	0	0	0	0	0	0
Lye	16	900	'33	2/19/34	4/7/34	1	0	1	0	0	0	0	0	0	0
Macaroni Mfg.	310	4,800	'31	1/29/34	6/23/34	193	101	62	4	0	0	3	0	0	23
Machine Applied Staple	38		'33	3/10/34	1/7/35	5	2	1	0	0	0	0	0	0	2
Machine Knife etc.		500	'33	2/6/34	3/3/34	12	7	5	0	0	0	0	0	0	0
Machine Tool & Forg.	279	21,150	'31	11/8/33	11/25/33	38	21	14	1	0	0	1	0	0	1
Machine Tool & Equip. Dist.	150	1,300	'32	11/27/33	2/27/34	10	6	2	2	0	0	0	0	0	0
Machined Waste	40	900	'33	12/7/33	2/17/34	27	4	23	0	0	0	0	0	0	0
Machinery & Allied Products		42,000	'33	3/17/34	4/7/34	151	82	37	10	1	0	1	0	0	20
Malleable Iron				11/27/33	1/13/34	42	21	18	1	0	0	1	0	0	1
Malt	26	2,300	'33	6/22/34	8/24/34	8	3	3	1	0	0	0	0	0	1
Manganese	21	400	'29	5/11/34	12/8/34	2	0	1	1	0	0	0	0	0	0
Mfg. & Whlse Surg.	104	1,900	'32	8/9/34	10/13/34	12	4	5	0	0	0	0	0	0	3
Marble Quarry	70	3,400	'29	5/9/34	5/26/34	9	7	2	0	0	0	0	0	0	0
Marine Auxiliary Machinery	5	300	'33	1/30/34	10/27/34	1	0	1	0	0	0	0	0	0	0
Marking Devices	332	3,000	'29	10/20/33	1/13/34	43	21	16	1	0	0	0	0	0	5
Mayonaise	370	4,000	'33	3/21/34	5/15/34	36	17	11	0	0	0	3	0	0	5
Mechanical Packing	86	1,300	'32	5/14/34	9/15/34	1	0	1	0	0	0	0	0	0	0
Medium & Low Priced Jewelry	1,100	22,300	'29	12/23/33	1/13/34	269	147	69	18	2	0	10	0	0	23
*Men's Clothing	3,691	143,900	'29	8/26/33	11/11/33	760	260	160	11	0	0	15	303	0	11
*Men's Neckwear	331	8,000	'29	3/24/34	3/24/34	183	89	54	21	0	0	2	0	0	17
Merchandise Warehousing	1,052	30,000	'33	8/21/34	2/17/34	160	80	55	11	0	0	4	0	0	10
MetalHat Die & Block			'33	1/23/34	8/4/34	4	0	4	0	0	0	0	0	0	0
Metal Hospital Furn.	32	1,900	'33	10/23/34	5/11/35	1	0	1	0	0	0	0	0	0	0
Metal Lath	16	600	'33	3/17/34	5/25/35	1	0	0	0	0	0	0	0	0	1
Metal Tank		6,300	'32	12/15/33	1/6/34	70	46	16	0	0	0	2	0	0	6
Merchant & Custom Tailoring	11,300	23,300	'29	7/31/34	8/15/34	418	152	181	23	0	0	6	0	0	56
Metal Etching		1,800	'31	6/4/34	11/24/34	3	1	1	0	0	0	0	0	0	1

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Metal Treating		1,200	'29	3/26/34	4/13/35	1	0	0	0	0	0	0	0	0	1
Metal Window	18	1,600	'32	1/13/34	2/24/34	11	6	4	1	0	0	0	0	0	0
Mica		700	'32	2/24/34	3/24/34	5	3	2	0	0	0	0	0	0	0
*Millinery	1,134	26,600	'31	12/13/33	1/13/34	411	209	134	26	0	0	10	0	0	32
Millinery & Dress Trim.	58	1,400	'31	10/31/33	11/25/33	65	21	33	5	0	0	0	0	0	6
Motor Bus		71,000	'32	10/31/33	11/18/33	300	140	104	14	0	1	21	0	0	20
Motorcycle Mfg.	2	800	'33	3/17/34	6/16/34	3	2	1	0	0	0	0	0	0	0
Motor Fire Appar.		1,100	'32	11/8/33	5/5/34	8	3	3	2	0	0	0	0	0	0
Motion Picture				11/27/33	12/2/33	2541	1,347	608	126	1	1	162	126	0	170
Motion Picture Lab.				9/7/33	11/25/33	24	16	3	2	0	0	0	0	0	3
Mop Stick		200	'32	11/14/33	11/24/34	2	1	0	1	0	0	0	0	0	0
Motor Veh. Main.				1/18/35	2/14/35	222	104	48	7	0	0	2	0	0	61
Motor Veh. Retail	43,894	350,000	'29	10/3/33	11/11/33	7092	4,236	1,825	342	19	1	206	1	0	562
Motor Veh.Stor. & Parking	18,300	124,200	'33	12/7/33	12/16/33	3893	2,202	877	393	21	0	163	0	49	188
Mutual Savings Bank	567	7,000	'29	10/9/33	3/21/35	1	0	1	0	0	0	0	0	0	0
Musical Merchandise	25	800	'32	1/10/34	2/3/34	16	8	5	1	0	0	0	0	0	2
Music Publishing				1/18/35	4/27/35	1	0	0	0	0	0	0	0	0	1
Narrow Fabrics	342	18,000	'29	2/27/34	3/24/34	52	33	14	1	2	0	1	0	0	1
Newsprint		6,600	'31	11/17/33	12/2/33	8	2	6	0	0	0	0	0	0	0
Non-Ferrous Foundry	1,500	14,000	'33	12/18/33	12/20/34	69	28	27	6	0	0	2	0	0	6
Non-Ferrous Ingot Metal	15	700	'32	12/21/33	5/15/34	4	2	1	1	0	0	0	0	0	0
Non-Ferrous Scrap Metal	12,900	180,000	'29	3/12/34	3/2/35	1	0	0	0	0	0	1	0	0	0
Nottingham Lace Curtain	11	3,200	'33	11/1/33	4/21/34	2	2	0	0	0	0	0	0	0	0
Novelty Curtain				11/1/33	11/25/33	127	64	36	10	0	0	3	0	0	14
Office Equipment	26	41,900	'32	11/4/33	11/25/33	84	45	34	4	0	0	0	0	0	1
Oil Burner	37	900	'31	9/18/33	11/11/33	115	54	44	2	1	0	5	0	0	9
Open Paper Drinking Cup	12	2,300	'33	3/26/34	6/23/34	3	1	0	0	0	0	0	0	0	2
Optical Mfg.	102	7,400	'31	10/9/33	11/11/33	104	52	27	3	0	0	15	0	0	7
Optical Retail	14,250	13,300	'33	6/4/34	6/30/34	36	15	13	3	0	0	4	0	0	1
Optical Wholesale		5,700	'33	5/31/34	6/9/34	39	17	17	1	0	0	1	0	0	3
Ornamental Moulding	200	2,600	'29	2/5/34	2/10/34	13	2	7	1	0	0	1	0	0	2
Outdoor Advertising		10,000	'33	2/24/34	3/10/34	60	27	27	2	0	0	1	0	0	3
Oxy-Acetylene	30	7,300	'33	12/15/33	2/24/34	18	9	5	1	0	0	0	0	0	3
Pacific Coast Dried Fruit	140	11,400	'33		3/16/35	8	2	5	0	0	0	0	0	0	1
Package & Processed Cheese	45	1,800	'33		3/30/35	2	0	0	0	0	0	0	0	0	2
Packaging Machinery (total)	50	2,300	'32	10/31/33	6/16/34	8	3	1	2	0	0	1	0	0	1
Pack. Mach. (basic)					6/16/34	3	2	0	0	0	0	1	0	0	0
Paper Box Mach.					9/30/34	5	1	1	2	0	0	0	0	0	1
Package Medicine	1,270	15,600	'31		6/16/34	31	12	14	0	0	0	2	0	0	3
Paint, Varnish & Lacquer	1,063	29,200	'29	10/31/33	11/25/33	132	85	32	3	0	0	1	0	0	11
Paper Bag	42	3,700	'32	1/26/34	2/10/34	50	28	12	2	0	0	1	0	0	7
Paperboard Mfg.	122	28,000	'29	11/8/33	11/18/35	20	11	8	0	0	0	0	0	0	1
Paper Disc. & Caps	23	500	'29	2/1/34	9/30/34	3	0	3	0	0	0	0	0	0	0
Paper Dist. Trade	1,000	20,000	'33	12/23/33	1/20/34	110	54	39	4	0	0	3	0	0	10
Paper Makers Felt		2,300	'29	5/11/34	2/2/35	2	0	1	0	0	0	0	0	0	1
Paper Making Mach.		1,100	'32	12/7/33	2/31/34	2	2	0	0	0	0	0	0	0	0
Paper & Pulp	854	107,900	'31	11/11/33	12/2/33	286	146	99	12	1	0	2	0	0	26
Pasted Shoe Stock	18	500	'33	5/3/34	1/21/35	7	4	2	0	0	0	0	0	0	1
Paper Stationery & Tablet	60	6,000	'32	12/30/33	1/27/34	16	3	3	0	0	0	1	4	0	5
Peanut Butter		1,500	'33	4/4/34	6/23/34	11	6	4	1	0	0	0	0	0	0
Pecan Shelling		12,500	'33	10/23/34	11/24/34	16	4	7	1	0	0	2	0	0	2

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(1) Name of Code	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
Perfume, Cosmetics	657	10,700	'31	3/22/34	4/14/34	119	45	32	9	0	0	3	0	0	30
•Petroleum				3/19/33	11/25/34	818	39	59	15	0	0	3	702	0	0
Pharmaceutical & Biological	388	9,500	'31	10/25/34	3/2/35	9	2	3	0	0	0	1	0	0	3
•Photo Engraving	800	7,600	'33	12/23/33	1/13/34	91	45	35	1	0	1	3	0	0	6
Photographic Mfg.	115	13,000	'29	8/19/33	3/31/34	11	5	2	1	0	0	0	0	0	3
Photographic & Photo Finishing	17,100	36,000	'33	5/31/34	4/7/34	282	123	104	25	0	0	4	0	0	26
Photographic Mount				2/19/34	3/24/34	5	3	2	0	0	0	0	0	0	0
Piano Manufacturing	50	4,700	'31	11/4/33	2/10/34	23	12	6	5	0	0	0	0	0	0
Pickle Packing		8,700	'33	10/4/34	10/27/34	56	21	15	2	0	0	1	0	0	17
Picture Mould & Frame		3,000	'31	1/16/34	2/17/34	59	36	11	4	2	0	2	0	0	4
Pipe Nipple Mfg.				11/27/33	1/13/34	10	8	1	0	0	0	1	0	0	0
Pipe Organ Mfg.		1,500	'31	1/16/34	5/12/34	7	2	0	1	0	0	2	0	0	2
Pleating, Stitching, etc.		6,200	'31	2/10/34	2/24/34	220	65	63	60	0	0	2	0	0	30
Plumbing Fixtures	238	19,700	'31	1/13/34	2/3/34	143	70	46	11	0	0	3	3	0	10
Porcelain Breakfast Furniture	54	4,200	'33	1/30/34	4/14/34	33	17	11	0	0	0	0	0	0	5
Pottery Supplies	10	400	'33	2/16/34	9/15/34	1	0	1	0	0	0	0	0	0	0
Powder Puff	25	2,000	'33	1/17/34	2/17/34	29	15	6	4	0	0	0	0	0	4
Precious Jewelry	2,630	13,000	'29	11/27/33	12/9/33	56	28	24	2	0	0	0	0	0	2
Preformed Plastic Prod.	10	200	'33	3/23/34	6/30/34	2	1	0	1	0	0	0	0	0	0
Preserve, Maraschino Cherry, etc.				6/8/34	7/7/34	29	16	6	1	0	0	0	0	0	6
Pretzel		2,300	'33	8/11/34	9/15/34	38	11	17	0	0	0	5	0	0	5
Print Roller & Block	18	150	'33	3/26/34	5/5/34	7	3	3	1	0	0	0	0	0	0
Printers Rollers	69	500	'31	11/8/33	3/3/34	3	3	0	0	0	0	0	0	0	0
Printing Equipment		13,500	'29	2/2/34	3/3/34	17	8	7	1	0	0	0	0	0	1
Printing Ink Mfg.	37	1,400	'31	3/16/34	4/28/34	7	3	3	0	0	0	0	0	0	1
Private Home School Study	200	2,400	'33	5/31/34	9/1/34	2	1	1	0	0	0	0	0	0	0
Public Seating		1,000	'33	7/10/34	8/24/34	8	5	0	0	0	0	2	0	0	1
Pump Manufacturing				10/11/33	12/30/33	16	10	6	0	0	0	0	0	0	0
Punchboard Mfg.	18	1,000	'33	3/2/34	4/28/34	7	0	2	2	0	0	2	0	0	1
Pyrotechnic Mfg.	37	1,400	'31	12/17/33	2/24/34	20	10	8	0	0	0	0	0	0	2
Quicksilver Mfg.	40	1,000	'29	3/21/34	12/8/34	5	0	0	1	0	0	0	0	0	4
Radio Broadcasting	604	11,500	'32	11/27/33	12/16/33	127	77	33	5	0	0	1	0	0	11
Railway Brass Car	8	1,500	'33	1/29/34	4/28/34	2	1	1	0	0	0	0	0	0	0
Railway Car Building	150	16,500	'33	2/16/34	3/10/34	20	5	14	0	0	0	0	0	0	1
Railway Safety Appliance	15	6,000	'33	1/12/34	3/3/34	2	1	1	0	0	0	0	0	0	0
Rayon & Silk Dye & Print	134	19,400	'33	12/21/33	2/26/34	213	179	16	6	1	0	1	0	0	10
Rayon Synthetic Yarn	29	39,100	'29	8/26/33	11/11/33	75	32	33	1	0	0	0	9	0	10
Raw Peanut Milling		6,300	'29	1/12/34	3/17/34	13	4	5	1	0	0	2	0	0	1
Ready Made Furniture Slip Cover Mfg.	6	300	'31	2/16/34	3/24/34	25	14	5	1	0	0	1	0	0	4
Ready Mixed Concrete	300	7,500	'33	2/27/34	3/31/34	25	10	5	6	0	0	2	0	0	2
Real Estate Brokers		70,000	'33	4/9/34	4/28/34	131	60	41	8	0	0	3	0	0	19
Reclaimed Rubber	11	2,000	'33	4/2/34	9/1/34	5	2	1	1	0	0	0	0	0	1
Refractories	199	7,900	'32	12/18/33	1/20/34	43	17	15	3	0	0	2	0	0	6
Refrigerated Warehouse	540	9,000	'33	8/8/34	9/1/34	72	25	40	1	0	0	1	0	0	5
Reinforcing Materials	138	2,200	'32	11/27/33	12/16/33	11	5	4	1	0	0	0	0	0	1
Restaurant	150,000	609,000	'29	2/16/34	2/24/34	16681	9514	4544	1190	36	12	293	0	195	897

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Retail Farm Equipment	12,240	30,800	'29	1/6/34	2/24/34	70	36	24	4	0	0	0	0	0	6
Retail Food & Grocery	389,900	562,700	'29	11/15/33	11/25/33	15793	9890	3985	666	25	6	361	0	0	860
Retail Jewelry	20,000	38,200	'29	11/27/33	12/2/33	327	190	108	8	3	0	7	0	0	11
Retail Lumber	21,150	95,000	'32	10/3/33	11/11/33	809	413	312	17	0	0	18	0	0	49
Retail Meat				12/21/34	1/19/35	379	112	117	20	0	0	9	0	0	121
Retail Monument	2,000	15,000	'33	3/26/34	4/21/34	107	44	46	4	0	0	7	0	0	6
Retail Solid Fuel	5,400	315,000	'33	2/14/34	3/3/34	1468	643	540	66	16	0	63	0	0	140
Retail Tobacco	33,200	34,000	'29	6/19/34	7/7/34	117	72	26	6	0	0	2	0	0	11
(A) Retail Trade (total)	893,725	3,453,800	'29	10/21/33	11/11/33	12002	7590	3465	191	15	1	220	12	0	508
Retail Trade (basic)					11/11/33	10386	6624	2982	144	7	1	184	12	0	432
Retail Custom Furrier					10/13/34	13	1	3	8	0	0	1	0	0	0
Retail Custom Milliy					2/16/35	7	0	2	0	0	0	0	0	0	5
Retail Drug Trade					11/11/33	1585	957	476	39	8	0	34	0	0	71
River & Harbor	240	35,000	'33	5/18/34	7/21/34	22	11	8	0	0	0	1	0	0	2
Road Machinery				10/31/33	12/9/33	15	8	5	1	0	0	0	0	0	1
Robe & Allied Products		2,100	'31	1/16/34	2/17/34	49	20	23	1	0	0	0	0	0	5
Rock Crusher				11/1/33	9/15/34	1	1	0	0	0	0	0	0	0	0
Rock & Slag Wool	28	900	'33	3/6/34	5/15/34	5	3	2	0	0	0	0	0	0	0
Rolling Steel Door	9	400	'33	12/21/33	3/31/34	2	1	0	0	0	0	1	0	0	0
Roofing & Granule		900	'29	3/31/34	4/2/34	4	1	2	1	0	0	0	0	0	0
Rubber Manufacturing	385	45,600	'32	12/15/33	1/6/34	229	105	85	12	2	0	4	0	0	21
Rubber Tire & Battery				5/1/34	5/15/34	651	344	191	23	1	0	26	0	0	66
Rubber Tire Mfg.	48	49,200	'31	12/21/33	1/6/34	67	27	26	7	0	0	3	0	0	4
Rug Chemical	9	500	'33	3/23/34	9/30/34	5	2	1	1	0	0	0	0	0	1
Saddlery	260	3,300	'29	10/3/33	12/9/33	60	28	22	1	0	0	5	0	0	4
Safety Razor Blade	25	5,000	'32	7/21/34	10/13/34	7	2	1	0	0	0	0	0	0	4
Salt Producing	58	5,500	'29	9/7/33	12/30/33	23	13	10	0	0	0	0	0	0	0
Sample Card	75	2,000	'33	10/18/34	4/7/34	44	15	11	7	0	0	2	0	0	9
Sand Lime Brick	31	600	'33	3/26/34	4/21/34	6	2	1	2	0	0	0	0	0	1
Sandstone		1,800	'31	4/6/34	4/2/35	1	1	0	0	0	0	0	0	0	0
Sanitary Waterproof Specialty	35	3,100	'32	3/17/34	5/26/34	10	5	1	4	0	0	0	0	0	0
Savings Bldg. & Loan				12/21/33	1/26/34	12	6	5	0	0	0	0	0	0	1
Saw & Steel	76	3,000	'31	2/10/34	4/7/34	3	0	3	0	0	0	0	0	0	0
Schiffli & Hand Emb.		3,500	'29	2/2/34	3/3/34	62	31	14	7	0	0	5	0	0	5
School Equipment & Supp.				7/5/34	1/19/35	1	1	0	0	0	0	0	0	0	0
Scientific Apparatus	97	11,200	'32	11/14/33	12/2/34	55	25	21	4	0	0	1	0	0	4
Scrap Iron, etc.	12,000	180,000	'29	3/12/34	3/24/34	1129	523	321	117	7	0	51	0	0	110
Shower Door	23	180	'33	5/19/34	4/27/35	1	0	0	0	0	0	0	0	0	1
Secondary Aluminum	26	400	'33	2/8/34	6/16/34	4	1	3	0	0	0	0	0	0	0
Securities Engraving & Printing					4/27/35	1	0	0	0	0	0	0	0	0	1
Seed Trade		15,500	'29	1/18/35	3/16/35	44	19	14	1	0	0	0	0	0	10
Set-Up Paper Box		40,000	'29	12/18/33	1/20/34	321	145	83	39	1	0	13	0	0	40
Sewing Machine	18	10,400	'32	4/21/34	6/9/34	32	10	15	1	0	0	0	0	0	6
• Shipbuilding & Repair	624	55,100	'29	10/10/33	11/18/33	146	74	43	12	0	0	11	0	0	6
Shoe Last & Form		1,100	'31	4/23/34	5/12/34	27	9	16	1	0	0	0	0	0	1
Shoe Leather & Finishing	89	1,400	'33	12/30/33	2/10/34	39	19	18	1	0	0	0	0	0	1
Shoe Machinery		4,300	'33	4/6/34	5/26/34	40	27	12	0	0	0	0	0	0	1
Shoe Pattern	50	400	'33	5/26/34	8/4/34	13	4	9	0	0	0	0	0	0	0
Shoe Rebuilding		40,000	'29	3/27/34	4/14/34	1323	788	365	77	2	1	12	0	19	59
Shovel, Drag Line & Crane		5,900	'32	11/8/33	1/13/34	7	4	1	1	0	0	1	0	0	0
Shoulder Pad	22	200	'33	2/5/34	5/19/34	13	2	6	3	0	0	0	0	0	2

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(1) Name of Code	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
Shuttle Mfg.				9/7/34	3/30/35	1	0	0	0	0	0	1	0	0	0
*Silk Textile	1,491	130,500	'29	10/7/33	11/11/33	430	298	99	12	0	0	11	0	0	10
Silverware	163	11,100	'31	12/23/33	2/10/34	35	18	12	0	0	0	1	0	0	4
Slate		4,100	'29	1/22/34	2/17/34	11	5	4	0	0	0	1	0	0	1
Slide Fastener	6	2,400	'33	1/31/34	9/1/34	2	1	0	1	0	0	0	0	0	0
Slit Fabric	100	1,700	'32	1/16/34	3/24/34	15	6	4	3	0	0	1	0	0	1
Small Arms	24	2,300	'31	3/22/34	4/14/34	8	1	6	0	0	0	0	0	0	1
Smoking Pipe	24	1,700	'31	1/23/34	2/17/34	29	11	14	2	0	0	0	0	0	2
Soap & Glycerine	248	14,200	'31	11/2/33	12/2/33	83	37	30	4	0	0	2	1	0	9
Soft Lime Rock		700	'33	5/7/34	11/24/34	1	0	1	0	0	0	0	0	0	0
Solid Braided Cord	15		'33	2/26/34	8/4/34	1	1	0	0	0	0	0	0	0	0
Soft Fibre	18	5,700	'33	4/9/34	5/12/34	7	2	3	0	0	0	1	0	0	1
Southern Rice Milling		1,500	'29		5/26/34	9	2	4	0	0	0	0	0	0	3
Special Tool & Die	129	15,900	'29	11/17/33	11/18/33	305	168	90	12	0	0	6	0	0	29
Specialty Accounting Supply	50	6,000	'33	5/17/34	10/13/34	7	5	2	0	0	0	0	0	0	0
Spice Grinding		900	'29	5/11/34	6/30/34	5	2	1	0	0	0	0	0	0	2
Spray Painting Equipment		1,100	'29	4/19/34	4/15/35	2	1	0	0	0	0	0	0	0	1
Stained & Leaded Glass		1,000	'33	11/2/34	3/16/35	2	0	0	0	0	0	0	0	0	2
Stay Manufacturing	31	750	'33	2/26/34	4/7/34	34	12	13	3	0	0	1	0	0	5
Steam Heating Equipment		3,000	'33	2/12/34	3/24/34	2	1	1	0	0	0	0	0	0	0
Steel Casting	168	39,700	'29	11/2/33	11/25/33	59	36	20	0	0	0	1	0	0	2
Steel Joist	10	100	'33	8/1/34	2/2/35	1	0	0	0	0	0	0	0	0	1
Steel Plate Fab.	66	6,000	'32	4/6/34	4/28/34	34	9	6	6	0	0	0	0	0	13
Steel Tubular & Fire Box Boiler	41	1,600	'33	10/23/33	12/2/34	12	6	6	0	0	0	0	0	0	0
Steel Wool	6	400	'33	2/28/34	4/7/34	3	1	2	0	0	0	0	0	0	0
Stock Exchange				11/4/33	11/25/33	47	27	12	1	0	0	3	0	0	4
Stone Finish.Machinery				1/14/35	3/10/34	1	0	1	0	0	0	0	0	0	0
Structural Clay	1,760	93,700	'29	11/27/33	1/13/34	155	91	49	1	0	0	2	0	0	12
Structural Steel & Iron				7/11/34	8/4/34	24	7	9	6	0	0	1	0	0	1
Surgical Dressing	17	2,250	'31	1/27/34	6/16/34	10	5	4	1	0	0	0	0	0	0
Surgical Dist.		10,000	'33	8/24/34	9/30/34	10	2	6	0	0	0	0	0	0	2
Sulphonated Oil	28	700	'33	6/23/34	4/27/35	2	2	0	0	0	0	0	0	0	0
Table Oil Cloth	9	1,400	'29	2/2/34	4/7/34	3	1	1	0	0	0	0	0	0	1
Tag Manufacturing	37	1,700	'33	2/1/34	3/31/34	17	5	9	1	0	0	0	0	0	2
Talc & Soapstone	27	600	'29	3/21/34	6/9/34	3	2	1	0	0	0	0	0	0	0
Tank Car Service	45	2,300	'29	5/22/34	6/16/34	1	1	0	0	0	0	0	0	0	0
Tanning Extract	18	1,000	'33	3/29/34	7/21/34	1	1	0	0	0	0	0	0	0	0
Terra Cotta	24	2,100	'31	10/31/33	4/14/34	2	1	1	0	0	0	0	0	0	0
Textile Bag	35	8,400	'32	9/18/33	11/11/33	91	51	30	2	0	0	4	0	0	4
Textile Examining	63	1,200	'33	8/6/34	10/13/34	2	2	0	0	0	0	0	0	0	0
Textile Machinery	376	27,000	'29	10/3/33	11/18/33	48	16	30	0	0	0	0	0	0	2
*Textile Print Roller	57	2,300	'33	3/8/34	6/9/34	1	1	0	0	0	0	0	0	0	0
Textile Processing (Ticket & Coupon)		12,000	'33	1/30/34	2/24/34 10/13/34	125 1	65 0	37 1	7 0	0 0	0 0	3 0	0 0	0 0	13 0
Throwing	251	47,000	'30	10/11/33	11/18/33	79	39	22	11	0	0	2	0	0	5
Toll Bridge	317	2,200	'33	5/17/34	7/21/34	4	0	4	0	0	0	0	0	0	0
Toy & Plaything	431	17,100	'31	11/4/33	11/18/33	343	159	83	49	1	0	13	0	0	38

TABLE 13

NRA State Office Complaints

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
Trailer Manufacturing	35	1,000	'31	6/26/34	9/1/34	10	2	3	0	0	0	0	0	0	5
Transit		264,000	'29	9/18/33	11/11/33	349	128	101	9	1	0	72	4	0	34
Transparent Material Converters	56	2,000	'33	4/4/34	4/28/34	3	1	1	0	0	0	0	0	0	1
(Trucking)				2/10/34	2/17/34	4,522	2,036	1,421	316	44	7	219	0	0	479
Umbrella	93	1,900	'31	10/9/33	12/9/33	30	16	11	0	0	0	1	0	0	2
Umbrella Frame, etc.	5	500	'33	4/6/34	5/19/34	2	2	0	0	0	0	0	0	0	0
Underwear & Allied Products	375	39,500	'31	9/18/33	11/11/33	463	249	163	22	0	0	8	0	0	21
Undergarment & Negligee	300	22,500	'33	12/18/34	5/5/34	311	124	117	19	1	0	15	0	0	35
Unit Heater & Ventilator		1,000	'32	2/10/34	2/16/35	1	0	0	0	0	0	0	0	0	1
Upholstery & Drapery Textile	165		'29	12/11/33	9/12/33	21	8	8	1	0	0	1	0	0	3
Upholstery Spring & Accessories	25	3,000	'32	8/4/34	4/14/34	25	13	3	5	0	0	1	0	0	3
Upward Acting Door	20	2,000	'33	8/11/34	11/24/34	2	1	1	0	0	0	0	0	0	0
Used Machinery Equipment				1/10/35	2/16/35	5	2	2	0	0	0	0	0	0	1
Used Textile Bag	200	4,000	'33	2/8/34	3/10/34	143	81	32	2	0	0	7	0	0	21
Used Textile Machinery & Accessories	81	400	'33	4/4/34	5/12/34	9	3	3	3	0	0	0	0	0	0
Vacuum Cleaner	29	4,400	'33	3/2/34	3/17/34	34	18	14	0	0	0	0	0	0	2
Valve & Fittings	150	40,000	'30	12/15/33	1/6/34	51	32	17	0	0	0	1	0	0	1
Vegetable Ivory Button	11	1,200	'29	6/9/34	9/30/34	3	1	0	1	0	0	0	0	0	1
Velvet Manufacturing	14	4,000	'33	7/5/34	5/19/34	7	1	4	1	0	0	1	0	0	0
Venetian Blind	23	400	'33	1/24/34	4/2/34	9	6	1	0	0	0	0	0	0	2
Vitrified Clay Sewer Pipe		9,800	'29	11/27/33	10/30/33	11	7	3	0	0	0	0	0	0	1
Wallpaper Manufacturing	56	4,700	'29	9/7/33	11/25/33	11	6	4	0	0	0	0	0	0	1
Warm Air Furnace	125	3,000	'32	11/27/33	1/6/34	44	24	13	2	0	0	0	0	0	5
Washing & Ironing Machine	59	6,200	'31	11/4/33	12/2/33	15	8	5	0	0	0	2	0	0	0
Watch Case Manufacturing	40	3,400	'29	12/23/33	3/10/34	9	7	0	2	0	0	0	0	0	0
Waterproof Paper	26	400	'33	2/17/34	9/30/34	1	0	1	0	0	0	0	0	0	0
Waxed Paper	71	2,400	'33	12/18/33	2/10/34	14	7	5	2	0	0	0	0	0	0
Wet Mop	34	400	'33	1/23/34	4/28/34	32	16	9	0	1	0	2	0	0	4
Wheat Flour Milling		22,800	'31		6/23/34	221	81	74	7	0	0	7	0	0	52
Wholesale Automotive	5,465	61,800	'33	12/18/33	1/13/34	283	140	90	15	0	0	0	4	0	34
Wholesale Coal		24,000	'29	3/1/34	5/12/34	11	4	5	2	0	0	0	0	0	0
Wholesale Confectioners				6/6/34	6/30/34	116	46	43	12	0	0	0	0	0	15
Wholesale Drug (No Code -P.R.A.)					9/1/34	2	0	2	0	0	0	0	0	0	0
Wholesale Food & Grocery	9,100	112,500	'29	3/21/34	12/2/33	1,724	1,00[illegible]	552	57	0	0	33	0	0	80
Wholesale Fresh Fruit & Vegetable		92,800	'29		8/4/34	788	361	277	25	0	0	20	0	0	105
Wholesale Hardware (201) (Supplement Code 201, See Wholesale Trade)					9/1/34	30	10	8	2	0	0	7	0	0	3
Wholesale Monumental Granite	438	13,000	'33	5/31/34	8/18/34	25	14	5	0	0	0	2	0	0	4
Wholesale Monumental Marble	14	900	'33	7/14/34	12/8/34	1	0	1	0	0	0	0	0	0	0
Wholesale Paint & Varnish (201) (Supplement Code 201, See Wholesale Trade)					9/30/34	3	3	0	0	0	0	0	0	0	0
Wholesale Plumbing Products		17,000	'33	8/25/34	10/13/34	31	13	12	2	0	0	1	0	0	3
Wholesale Tobacco Trade	2,000	19,600	'29	6/9/34	7/7/34	121	49	37	8	0	1	3	0	0	23

TABLE 13

NRA State Office Complaints

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
Wholesale Trade (total)	45,040	460,000	'29	1/12/34	1/13/34	1,658	879	517	97	1	0	33	1	0	130
Wholesale Trade (basic)					1/13/34	1,307	739	402	70	0	0	14	1	0	81
Charcoal & Pack. Fuel					9/15/34	56	13	30	1	0	0	0	0	0	12
Copper, Brass, Bronze, etc.					3/16/35	5	0	1	1	0	0	0	0	0	3
Fur Whlse. & Dist.					7/21/34	4	3	1	0	0	0	0	0	0	0
Window Glass Manufacturing	14	(5,000) ('29)	'34	11/22/34	4/13/35	1	0	1	0	0	0	0	0	0	0
Wine		2,000	'34	8/18/34	9/30/34	83	46	16	5	0	0	4	0	0	12
Wiping Cloth	105	3,500	'32	2/17/34	3/3/34	74	57	6	2	0	0	0	1	0	8
Wire Rope & Strand (84) (Supplement Code 84 See Fabricated Metals Code)				5/24/34	1/7/35	2	0	0	1	0	0	0	0	0	1
Witch Hazel	8	500	'33	2/1/34	5/25/35	1	0	0	0	0	0	0	0	0	1
Women's Belt	70	2,700	'30	10/3/33	12/2/33	62	29	19	5	0	0	0	0	0	9
Women's Neckwear	110	4,000	'34	12/19/34	2/2/35	11	3	1	0	0	0	1	0	0	6
Wood Cased Lead Pencil	12	4,500	'29	11/24/34	4/21/34	6	2	4	0	0	0	0	0	0	0
Wood Heel	116	11,000	'31	2/9/34	3/3/34	70	40	21	0	0	0	1	0	0	8
Wood Plug		300	'32	11/14/33	3/10/34	2	0	2	0	0	0	0	0	0	0
Wood Preserving	115	5,600	'33	7/13/34	9/1/34	12	1	10	0	0	0	0	0	0	1
Wooden Insulation & Bracket	8	300	'29	3/16/34	8/4/34	2	1	1	0	0	0	0	0	0	0
Wood Turning & Shaping	215	5,200	'33	4/4/34	5/12/34	37	14	13	1	0	0	5	0	0	4
Wool Felt		1,450	'33	11/27/33	3/24/34	6	1	1	3	0	0	0	0	0	1
*Wool Textile	813	150,600	'29	7/26/33	11/11/33	323	201	101	16	0	0	2	0	0	3
Wool Trade	664	4,100	'33	1/16/34	2/24/34	14	9	1	2	0	0	0	0	0	2
Wrecking & Salvage	350	30,000	'29	10/26/34	3/17/34	402	205	87	49	0	0	18	0	0	43
Yeast	12	1,900	'33	7/2/34	10/27/34	8	5	1	0	0	0	0	0	0	2
Zinc				Subsq. 1/18/35	5/11/35	2	0	0	0	0	0	0	0	0	2

*: Code Authority officially authorized to handle labor complaints
**: Code Authority officially authorized, committees not set up, however
A: Code Authority authorized to handle complaints on Reference.

Notes:

Date entered under "date of earliest complaint," represents the close of the reporting period in which the first complaint was docketed by a state office.

Totals for complaints investigated, with no violation found include complaints primarily rejected before June 16, 1934.

Complaints adjusted include complaints satisfactorily adjusted by code agencies while "on reference," prior to June 16, 1934. Some cases which were investigated and in which no violation was found were included with adjusted figures in state office reports prior to June 16, 1934.

Complaints listed as referred to the Federal District Attorney include all complaints reported as referred to the District Attorney between April 21, 1934 and January 5, 1935, and complaints referred to the Federal District Attorney, thereafter.

TABLE 14

NRA STATE OFFICE COMPLAINTS STATISTICS

Twenty-five Codes with Greatest Number of Labor Complaints,
October 19, 1933 - May 27, 1935

Name of Code	Total	Adjusted	No Violation	Dropped	Pending
Total	90,001	39,930	34,593	11,002	4,476
Restaurant Industry	14,664	6,822	5,073	2,198	571
Retail Food & Grocery	13,620	7,483	4,432	1,136	569
Retail Trade	10,228	4,876	4,302	689	361
Construction Industry	6,977	2,794	2,961	645	577
Motor Vehicle Retail	6,060	3,152	2,163	417	328
Hotel Industry	4,321	1,534	1,771	904	112
Trucking Industry	3,557	1,421	1,412	413	311
Baking Industry	3,340	1,466	1,208	402	264
Motor Veh. Stg. & Pkg.	3,327	1,239	1,201	715	172
Lumber & Timber Products	2,809	762	1,445	493	109
Graphic Arts Industry	2,674	1,013	1,068	400	193
Cleaning & Dyeing Ind.	2,376	861	905	506	104
Motion Picture Industry	1,944	725	888	232	99
Barber Shop Trade	1,620	821	533	216	20
Boot & Shoe Industry	1,584	583	770	103	128
Whse. Distributing Trade	1,317	624	475	162	56
Whse. Food & Grocery	1,302	533	571	158	40
Retail Solid Fuel	1,273	495	590	97	91
Cotton Garment Industry	1,160	546	466	127	21
Laundry Industry	1,041	253	387	347	54
Ice Industry	1,033	423	442	123	45
Shoe Rebuilding Trade	998	356	380	225	31
Fabricated Metals	961	410	391	92	68
Scrap Iron-Non Ferrous Met.	911	380	350	106	75
Furniture Mfg.	904	353	373	96	77

Prepared by: Statistical Section,
Field Division, NRA
March 20, 1936

TABLE 15

TABLE OF CODES APPROVED PRIOR TO CODE NO.500, LABOR PROVISIONS OF WHICH NO STATE OFFICE REPORTS AS HAVING HANDLED

(Code No. 500. Approved August 8, 1934)

Air Valve
Athletic Goods Mfg. (254)
Baking Industry in Puerto Rico (?)
Bulk Drinking Straw, Wrapped Drinking Straw, Wrapped Toothpick, & Wrapped Manicure Stick (331)
Canvas Stitched Belt (422)
Card Clothing Industry (222)
Clay Machinery (343)
Cloth Reel Industry (289)
Cold Storage Door (479)
Collapsible Tube (345)
Counter Type Ice Cream Freezer (418)
Cylinder Mould & Dandy Rool (358)
Daily Newspaper (238)
Expanding & Specialty Paper Products (369)
Feldspar (206)
Flexible Insulation (409)
Horseshoe & Allied Products (325)
Imported Green Olive (491)
Industrial Oil Burning Equipment (493)
Milk Filtering Materials, etc. (396)
Newspaper Printing Press (319)
Non-Ferrous & Steel Convector (371)
Oyster Shell Crushers (452)
Photographic Mount (290)
Plumbago Crucible (63)
Processed or Refined Fish Oil (500)
Railroad Special Track Equipment (385)
Sanitary Milk Bottle Closure (371)
Sanitary Napkin & Cleansing Tissue (200)
Secondary Steel Products Warehousing (468)
Shower Door (435)
Stereotype Dry Mat (402)
Tapioca (328)
Waterproofing, Dampproofing, etc. (240)
Welt Mfg. (227)
Wire Rod & Tube Die (250)

TABLE 16.

NUMBER OF PRODUCTIVE EMPLOYEES IN NRA STATE OFFICES
FOR THE 4 WEEKS PERIOD ENDED FEBRUARY 16, 1935,
WEIGHTED BY INDUSTRIAL COVERAGE

Offices by Regions	Area, Water Land (sq.mi.)	NRA Industrial Coverage (Est.)	Productive NRA Staff	Productive Volunteer Staff
TOTAL ALL OFFICES:				
Water	53,024			
Land	2,973,774	22,589,384	545	125
REGION 1, Total	4,448			
	61,976	1,854,655	44	3.5
	3,145			
Maine	29,895	155,332	3	0
	310			
New Hampshire	9,031	100,505	3	0
	440			
Vermont	9,124	60,875	2	0
	227			
Massachusetts	8,039	988,532	20	0
	181			
Rhode Island	1,067	165,710	7	0
	145			
Connecticut	4,820	383,701	9	3.5
	1,550			
REGION 2, Total	47,654	2,963,564	58	108
	1,550			
Albany, N. Y.	47,654	2,963,564	8	10
Buffalo, N. Y.			11	0
New York, N. Y.			39	108
	9,856			
REGION 3, Total	153,314	4,405,321	103	0
	710			
New Jersey	7,514	990,729	11	0
Philadelphia, Pa.	294			
Philadelphia, Pa.	44,832	2,230,736	26	0
Pittsburgh			22	0
	405			
Delaware	1,965	47,778	5	0
	2,386			
Maryland	9,941	359,023	11	0
	10			
Dist. of Columbia	60	10[illegible],297	4	0
	2,365			
Virginia	40,262	341,660	13	0
	3,686			
North Carolina	48,740	355,098	11	0

(Continued)

TABLE 16 (Cont'd)

Offices by Regions	Area, Water Land (sq.mi.)	NRA Industrial Coverage (Est.)	Productive NRA Staff	Productive Volunteer Staff
	9,498			
REGION 4, Total	338,818	1,831,121	62	0
	494			
South Carolina	30,495	180,719	6	0
	540			
Georgia	58,725	339,768	8	0
	3,805			
Florida	54,861	252,119	6	0
	335			
Tennessee	41,687	305,633	11	0
	719			
Alabama	51,279	311,333	12	0
	505			
Mississippi	46,362	151,150	8	0
	3,097			
Louisiana	45,409	290,399	11	0
	1,365			
REGION 5, Total	162,425	3,202,969	55	3
	500			
Michigan	57,480	1,108,274	16	0
	300			
Ohio	40,740	1,455,219	25	3
	148			
West Virginia	24,022	318,524	7	0
	417			
Kentucky	40,181	322,952	7	0
	2,434			
REGION 6, Total	216,071	3,474,749	67	3
	810			
Wisconsin	55,256	521,466	16	0
	309			
Indiana	36,045	629,572	8	0
	622			
Illinois	56,043	1,698,266	27	0
	693			
Missouri	68,727	625,455	16	3
	7,538			
REGION 7, Total	643,283	1,482,504	54	5.5
	3,824			
Minnesota	80,858	388,166	11	1
	561			
Iowa	55,561	329,606	8	0
	654			
North Dakota	70,183	53,761	3	0
	747			
South Dakota	76,868	61,077	4	0
	712			
Nebraska	76,808	179,310	8	4.5

(Continued)

TABLE 16 (Cont'd)

Offices by Regions	Area, Water Land (sq.mi.)	NRA Industrial Coverage (Est.)	Productive NRA Staff	Productive Volunteer Staff
	384			
Kansas	81,774	266,773	9	0
	366			
Wyoming	97,548	36,018	4	0
	290			
Colorado	103,658	167,793	7	0
	5,082			
REGION 8, Total	506,840	1,299,136	44	0
	810			
Arkansas	52,525	164,227	5	0
	643			
Oklahoma	69,414	314,845	10	0
	3,498			
Dallas, Texas)	262,398	772,088	12	0
Houston, Texas)			14	0
	131			
New Mexico	122,503	47,973	3	0
	11,246			
REGION 9, Total	853,395	2,075,365	69	2
	866			
Montana	146,131	83,138	3	1
	534			
Idaho	83,354	59,745	3	0
	2,806			
Utah	82,184	78,318	2	0
	869			
Nevada	109,821	20,987	6	0
	146			
Arizona	113,810	74,666	4	0
	2,291			
Washington	66,836	347,272	13	0
	1,092			
Oregon	95,607	198,373	5	0
	2,645			
Los Angeles, Calif.)	155,652	1,212,866	17	1
San Francisco, ")			16	0

DEFINITIONS:

Industrial Coverage figures derived by Research and Planning from Census of Occupations, 1930. Represents gainful workers in industries wholly or partially subject to N.R.A. Codes. P.R.A. coverage also included.

PRODUCTIVE STAFF, those actually engaged in compliance activity, either field or office.

State Office Series — Table 17

N.R.A. STATE OFFICE COMPLAINT STATISTICS

MONTH OF RECEIPT

Total Number of Cases under President's Reemployment Agreement, October 19, 1933 - May 27, 1935 a/

Month Received	Total	Adjusted	No Violation	Dropped	Pending
August, 1933-May 27, 1935 total	12,363	4,365	6,430	806	762
1933					
August - December	5,398	2,315	3,343	331	9
Prior to October 19	4,160	1,683	2,279	192	6
August	1,013	393	585	34	1
September	2,270	929	1,212	125	4
October	1,412	547	796	67	2
November	850	271	489	69	1
December	473	175	261	36	1
1934					
January - June 15	2,712	831	1,212	204	465
January	495	171	277	44	3
February	743	117	158	27	441
March	329	139	149	37	4
April	375	156	192	25	2
May	499	153	287	48	11
June 1 - June 15	271	95	149	23	4
June 16 - December 31	2,714	958	1,475	208	73
June 16 - June 30	310	116	167	23	4
July	534	196	296	36	6
August	462	161	253	41	7
September	446	159	241	36	12
October	388	141	207	27	13
November	275	84	158	26	7
December	297	101	153	19	24

Table 17 (continued)

Month Received	Total	Adjusted	No Violation	Dropped	Pending
1935					
January 1 - May 27	913	250	396	59	213
January	254	84	132	18	20
February	219	56	95	17	51
March	182	45	85	13	41
April	169	43	86	7	33
May 1 - May 27	94	24	18	4	48
Not reported	21	11	4	4	2

a/ The offices were officially active from October 19, 1933, to May 27, 1935.

Prepared by:
Statistical Section,
Field Division, NRA
March 4, 1936

Appendix 1.

Humboldt Bank Building,
San Francisco, California.

December 20, 1934.

Mr. H. E. McKnight,
Special Assistant General Counsel,
Litigation Division, NRA,
Lenox Building,
Washington, D. C.

Dear Mr. McKnight:

Your letter of December 14 reaches me a few hours before my departure for Los Angeles. However, as you asked for an early reply, I hope that the following will be of some assistance to you:

(1) Voluntary compliance is probably not more than fifty percent. That is to say, I doubt if more than fifty percent of the employers are observing all the provisions of the codes. This may sound startling, but the fact remains that it has not yet become popular for the public to report complaints. We are encouraged, however, at the progress we are making in that respect.

(2) In our opinion, our state compliance machinery is sufficient to take care of the ordinary complaints. It requires, however, constant supervision and we are continually faced with the necessity of improving our technique to meet changing conditions. The present plan of decentralizing by Washington should help us a great deal.

(3) The cooperation which we have received from the Litigation Division of the NRA in regard to court action has been splendid. I cannot too highly commend the efforts of Mr. Pinkney and his assistants. The Federal District Attorney in Los Angeles has helped us materially. In San Francisco we have not had that same degree of cooperation.

(4) While we have received assistance from some of the Code Authorities, there are many from whom we have received no assistance whatever. As we see it, the weaknesses of the Code Authorities come from their great desire to collect assessments, from their desire to build up membership in trade associations, and from their desire

to carry over into the work of the NRA the feuds and bitternesses of other years.

(5) The hour and labor provisions of other than the service codes are the easiest to enforce. The hour and labor provisions of the service codes are difficult to enforce and most of the price-control provisions for all codes are likewise difficult. It is our opinion that the problem of enforcement will be greatly simplified if the language of the code was changed so as to do away with ambiguity of meaning.

(6) Our enforcement procedure would be decidedly more efficient if some quick method could be devised by which government contracts could be prevented from going to code violators. This would probably require the transfer to the state or regional director of some of the authority now vested in the Government contract section. It would also facilitate enforcement if requested rulings and interpretations from Washington were handled with great promptness, and if the national code authorities were restrained from putting out rulings and interpretations of their own.

(7) We are convinced that public opinion would support a strong enforcement program, as lack of enforcement is the one general criticism that is directed against the NRA.

The California state recovery act has helped us a great deal, particularly since the State Court of Appeals recently held it to be constitutional. We hope that at the coming session of the Legislature a new act will be passed which will further strengthen our enforcement program.

In our opinion, enforcement could be improved if, as a matter of policy, it were decided that in all instances Washington would be required to support the actions and decisions of the field offices. We do not mean to infer that Washington consciously does otherwise. However, there are instances where, after proceeding practically to the point of settlement, we are advised to hold up action on this, that and the other matter until Washington can review the facts. These delays tend to lessen the respect in which we are held.

Very truly yours,

Donald Henshaw,
State NRA Compliance
Director.

DH:HLB

9839

APPENDIX 2

TRADE PRACTICE REGULATIONS IN NRA CODES

With Approxima to Percentage of Codes Containing each

I. Requirements

Practices tending to effect minimum price	79
Uniform methods of cost finding	72
Open prices	59
Specified disount and credit terms	43
Specified standards for industry products or services	38
Specified transportation terms	27
Standard forms or terms of contracts	22
Specified forms or terms of, or conditions surrounding the making of, bids and quotations	18
Classification of customers	17
Specified forms of arbitration	13
Limitation of machine and plant hours	12
Specified terms for government purchases	9
Control of capacity	8
Charge for supplying of specified non-industry products or services	4
Specified classifications or descriptions of industry products	3
Filing of sealed bids	2
Specified production quotas	2
Charge for estimating	1
Control of inventory	1
Specified hours of business	1
Specified invoice forms	1
Compliance with codes of suppliers	-
Filing of individual standard forms for guarantees	-
Specified charge for and use of dies	-
Specified conditions for and terms to be used in the making of appraisale	-
Specified manner of dispensing products directly to a customer's patient for the account of a customer	-
Specified qualifications for bidding contractors	-
Specified use of trade acceptances	-

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Misrepresentative and deceptive advertising	72
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Defamation of competitors	65
Interference with contracts	62

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False marking or branding	49
False invoicing	48
Unwarranted threats of litigation	29
Espionage of competitors	24
Imitation of trade marks or designs	24
Discrimination in price, etc.	22
Substitution	20
Sale of one product being made in any way contingent upon the sale of another product	19
Style piracy	18
Lump sum or combination prices	15
Enticement of employees	11
Financing purchasers	11
Conspiracy, aiding or abetting unfair trade practices	10
Repudiation of contracts	8
Coercion	6
Blacklists	4
Dumping	4
Specified types of advertising	2
Deceptive prices	1
Fales receipts	1
Fee splitting	1
Giving of options	1
Sales with repurchase agreements	1
Use of false measures	1
Certification of industry products by others than the makers of the products	-
Dealing in specified types of property on a speculative basis	-
Failure to display information concerning the insurance provided for the property of customers while in the hands of members	-
False classification of industry products	-
Furnishing of display cases at less than specified charge	-
Guaranteeing of accounts	-
Guaranteeing of retail turnover	-
Loaning or transferring of licenses	-
Maintenance of stocks in the hands of salesmen other than exclusive employees	-
Purchase of stolen goods	-
Reversal of charges for phone, etc	-
Selling from samples of competitors	-
Shipment without order	-
Solicitation of a customer (by a monument retailer) within 14 days after the death of a member of the customer's family	-
Split shipments at a price based on shipment of entire order at one time	-
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(Cont'd)

APPENDIX 2 (Cont'd)

III. Other Groups of Regulations

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Consignment sales	43
Price guarantees	25
Premiums	22
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Payment or acceptance of commissions	13
Product guarantees	12
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Samples	10
Seconds	10
Trade-in allowances	8
Marking or branding	7
Sales with deferred delivery	7
Direct selling	6
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Affiliate sales	5
Extending or exceeding contracts	5
Installment sales	5
Retroactive settlements	4
Specified types of packages and other containers	4
Demonstrations	3
Use or sale of second-hand goods	3
Affiliate cost	2
Installations of material sold	2
Leasing to customers	2
Letting goods out on trial	2
Sales of reconditioned goods	2
Sales to charitable institutions	2
Allowances for shortage, etc	1
Furnishing drawings	1
Gifts to charitable institutions	1
Inclusion of taxes in announced prices	1
Loans to customers	1
Purchasing from customers	1
Specified mediums of payment for industry products	1
Bonuses and penalties	-
Missionary sales help to customers	-
Payment of brokerage	-
Sales of non-industry products	-
Sales to delinquent accounts	-

APPENDIX 2 (a).

PROVISIONS CONCERNING FALSE MARKING OR BRANDING

19. Wall Paper Mfg.: Unfair practice: The false marking or branding of products of the industry. (VII, f)

26. Gasoline Pump Mfg.:, The marking, branding, or failure to mark or brand a product for the purpose or with the effect of misleading or deceiving purchasers or prospective purchasers, with respect to the quantity, quality, size, grade, or substance of product purchased. (VII, a)

29. Artificial Flower & Feather: No member of the industry shall brand or mark or pack any goods in any manner which is intended to or does deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, substance, character, nature, finish, material, content or preparation of such goods. (VII, 3)

48. Silk Textile: No employer shall use advertising, whether printed, radio, or display, or of any other kind, and/or labeling and/or selling methods, which tend to deceive or mislead the purchaser or consumer. (Amd. 1. Division of Broad Goods, Hat Bands, etc.)

70. Gas Cock: There shall be no ... misbranding for the purpose of misleading purchasers or prospective purchasers. (XV, 3).

78. Nottingham Lace Curtain: Merchandise misbranding: Misrepresentation as to the weight, quantity, quality, size, or grade of any product sold, or offered for sale, is an unfair trade practice. (VIII, 11).

80 Asbestos: Unfair practice: To misbrand material or to imitate the trade marks, trade names, slogans, or advertising matter of a competitor. (VII, 4d).

90. Funeral Supply: Unfair practice: To resort to indulge in practices which are prefudicial to the public interest such as misbranding, misrepresentation in branding, labeling, selling and advertiing. (IX, r)

94. Men's Garter: No member of the industry shall brand or mark or pack any goods in any manner which is intended to or does deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, substance, character, nature, finish, material content, or preparation of such goods. (Amd. 1, 1914).

234. Macaroni: To sell or otherwise introduce into commerce any macaroni product that is misbranded. A macaroni product shall be deemed to be misbranded if it fail to conform to the following standards and requirements: (a) If it purports to be or is represented as a macaroni product for which a definition of identity has been prescribed by this code and fails to comply therewith. (b) If it purports to be or is represented as a macaroni product for which standards of quality have

been prescribed by this code and fails to state on the label, if so required by the regulations prescribed or falls below the standard of quality in terms as such regulations specify, or falls below the standard stated on the label. (VII, 2). (For further label requirements, see Amendment 4).

245. Corrugated & Solid Fibre Shipping Container: The certification of corrugated and solid fiber boxes as required by the published schedules of the carriers, by others than the box makers who actually made the boxes, deceives the carriers and the consuming public as to the name of the actual maker of the box, and is condemned as unfair competition. The certification of corrugated and solid fiber boxes as complying fully with the published rules of carriers, when in fact such is not the case, misleads the buyer, deceives the consumer, and is condemned as unfair competition. (Rule 4, 5, Art. X).

254. Athletic Goods Mfg.: No member of the industry shall mark or brand merchandise or the wrappings or packages thereof, for the purpose, or with the intent, or having the effect of misleading or deceiving the purchaser or consumer in respect to the quality, size, weight, or grade of the articles so marked or branded, or use materials or workmanship different or inferior to that claimed, stated, or implied in any mark or brand, label, wrapping, package, or advertisement. (VII, 11).

487. Importing Trades: No importer shall brand, mark or pack any goods in any manner which is intended to or does deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, substance, character, nature, finish, material content, or preparation of such goods; nor shall any importer sell or offer for sale any imported merchandise labeled, marked, stamped or branded in any manner which misleads or tends to mislead the purchaser; nor shall any importer knowingly initiate, or sell or offer for sale any name, slogan, or any other mark of indentification of a product of domestic manufacture when such domestic marks, names or slogans have been in actual use prior to their use in the case of imported goods, if such device has the capacity to mislead a purchaser or prospective purchaser. (VII, 1)

APPENDIX 3

(Bulletin #7, "Manual for the Adjustment of Complaints", is not here reproduced since it is available in printed form through the Government Printing Office.)

FIELD LETTER NO. 125

JUNE 13th, 1934.

To: State NRA Compliance Director

From: Chief, Field Branch

1. COMPLAINT MANUAL: For the guidance of Field Officers in the handling of labor complaints under approved codes, and in order to insure a uniformity of procedure in all offices, we have prepared a Manual for the Handling of Labor Complaints.

This Manual calls for more decisive handling of complaints and broader action in securing compliance, and will aid the offices in a more effective program for compliance.

We are sending forward to you a sufficient supply of this Manual so that each officer engaged in the handling of complaints may have a copy.

It is not desired that this Manual have circulation outside of our own organization.

2. REVISED BULLETIN 7, AND SUPPLEMENTAL MEMORANDUM

have been prepared and will be sent to the Field Offices within the next few days.

John Swope,
Chief, Field Branch,
Compliance Division.

HANDLING OF COMPLAINTS AS TO VIOLATIONS OF THE LABOR PROVISIONS OF THE CODE

Types of Complaints

What Constitutes Satisfactory Adjustment of Complaints

- Payment of wages at less than minimum
- Working hours in excess of maximum
- Discharge of an employee for filing a complaint
- Failure to post Labor Provisions
- Exceeding the number of Learners
- Exceeding the number of Handicapped
- Rating as Substandard workers for whom no certificates have been obtained
- Violation of Child Labor, Homework, Safety and other labor provisions
- Operating in excess of production hours
- Failure to keep proper records where the Code requires the keeping of such records

Suggestions as to Technique of Adjustment

- Office Complaints
- Obtaining Complainant's Statement
  - Wage and Hour Complaints
  - Dismissal Complaints
- Personal contact with employers
- Outline of Information to be secured from the employer
- Attorneys representing employers
- Adjustment of Wage and Hour complaints
- Collection of back wages for discharged employees
- Reinstatement of discharged employees
- Posting of labor provisions
- Evidence of compliance and adjustment
- PRA cases
- Prosecution of Code violations

Case Records

Suggested forms

1. Office complaint
2. Information on Hours and Wages
3. Dismissal Information
4. Employer Information on Wages and Hours
5. Record of Interview
6. Statement of Compliance
7. Payroll Form

Organization of Staff

Staff meetings
Specializing on Codes
Adjuster's reports
Daily record form
Adjuster's Itineraries
Form

The Use of State Adjustment Boards

Type of cases to be handled
Procedure of State Adjustment Board
Publicity on Hearings

Cooperation with Other Agencies in Securing Compliance

THE HANDLING OF COMPLAINTS

AS TO

VIOLATIONS OF LABOR PROVISIONS OF THE CODES

Types of Complaints.

Under all the Codes the following conditions constitute Code violations:

Payment of wages at less than the Code minimum.
Working hours in excess of the Code maximum.
Employment of Child Labor.
Violations of Section 7 (a).
(To be referred to Regional Labor Board.)

Under Executive Orders the following conditions are made Code violations under all Codes:

Payment of less than Code minimum to an excess percentage of learners or handicapped persons.
Failure to post Labor Provisions.
Discharge of an employee for filing a complaint with NRA.

Under special Codes the following conditions also constitute violations:

Violation of Home Work Provisions.
Violations of Safety Regulations.
Operation of plant in excess of Productive Hours permitted.
Note: While primarily a violation of Trade Practice, the operation of a plant in excess of permitted productive hours involves the workers and the Labor Compliance Officer will ordinarily make the adjustment.
Failure to keep proper hour and wage records.

WHAT CONSTITUTES SATISFACTORY ADJUSTMENT OF VIOLATION OF LABOR PROVISIONS OF THE CODES

Payment of Wages at Less Than Code Minimum. The employer should be required to make full restitution of back wages due, calculated on the basis of the correct wage specified in the Code, back to the date of the adoption of the Code.

Where there is question as to the financial ability of the employer to make full restitution the case should be referred to the State Adjustment Board.

In these cases the aim should be to obtain as nearly as possible the full amount due the employee. It may sometimes be necessary to compromise on less than the full amount rather than create a situation where the employee may obtain even less, or nothing. However, in such cases it is better to permit payment in installments rather than permit a reduction in the total amount to be paid.

Where records are incomplete or disputed and the amount of back wages due cannot be calculated definitely the case should be referred to the State Adjustment Board.

Working Hours in Excess of the Code Maximum. The employer should be required to pay for overtime at a higher rate than the rate paid for regular working hours. If an overtime rate is specified in the Code that rate will apply to overtime which is permitted by the Code. For all overtime which is not permitted by the Code an employer should be required to pay at a rate in excess of the overtime rate for permitted overtime.

Where the payment of an excess rate for overtime involves undue hardship on the employer, or where the nature of the violation suggests an exception from the above standard of adjustment, the case will be referred to the State Adjustment Board. The decision of the Board will depend upon the provisions of the Code involved, whether the violations were deliberate, and the degree of hardship that would be imposed upon the employer in requiring payment at a higher rate.

DISCHARGE OF AN EMPLOYEE FOR FILING A COMPLAINT WITH NRA

The employer should be persuaded to reinstate the employee and an understanding should be effected which will insure continuance of the employee's job.

If this understanding cannot be effected by the adjuster the case should be referred promptly to the State Adjustment Board for adjustment, or for prosecution.

FAILURE TO POST LABOR PROVISIONS

The employer, of course, will be required immediately to post the labor provisions. Whether prosecution should be recommended for failure to post official copies of the labor provisions of a Code, when they have been issued for any industry, will depend upon the conditions in the case. If an employer is complying with the Code the failure to post the Labor Provisions may be considered as unintentional. If the employer is not complying with all Code requirements the failure to post Labor Provisions may be evidence of diliberate intent not to comply.

EXCEEDING THE NUMBER OF LEARNERS PERMITTED UNDER THE CODE

The employer should be required to make restitution of back wages to the excess number of learners, who should be paid the difference between the amount actually paid and the amount they should have been paid at the minimum rate for experienced workers. Seniority in length of experience can usually be taken as a guide in determining which individuals shall receive back pay.

EXCEEDING THE NUMBER OF HANDICAPPED WORKERS PERMITTED UNDER THE CODE

The employer should be required to make restitution of wages to the excess number of substandard worker, who should be paid the difference between the amount actually paid and the amount they should have been paid at the minimum rate for standard workers. The actual earning capacity of the substandard workers may be used as a guide to determine which individuals shall receive back pay. Enough of those who have been earning nearest the Code minimum should be compensated to bring down to the proper figure the total number receiving less than the minimum.

RATING AS SUBSTANDARD WORKERS FOR WHOM NO CERTIFICATES HAVE BEEN OBTAINED

An employer who has employed a worker as handicapped, at wages less than the minimum, subsequent to Executive Order dated Feb. 17, 1934, without obtaining a certificate should be required to make restitution at the full minimum rate for standard workers specified in the Code, unless he can establish the fact that the violation was unintentional, and unless a certificate is later obtained indicating that the wages paid were commensurate with the handicapped person's earning capacity.

VIOLATION OF CHILD LABOR, HOMEWORK, SAFETY AND OTHER LABOR PROVISIONS

No hard and fast rules can be laid down for cases of this kind. First violations that are not deliberate, should usually carry a reprimand and admonition that any subsequent violations will be presumed to be deliberate and the burden of proving otherwise will rest entirely on the employer.

OPERATING IN EXCESS OF PRODUCTIVE HOURS

While technically a trade practice violation, operating in excess of productive hours, is closely allied to a labor violation, an adjustment equitable to the workers, as well as to the industry as a whole, should be made. The industry as a whole can best be compensated by requiring the offender to reduce his productive hours in a future period by the number of excess hours he has operated in the past. If all the employees worked the excess hours, this is simple; but if only a part of the employees, or if an extra shift, worked the excess hours complications may arise due to the fact that employees who did not benefit by being paid for the excess hours will be required to work a reduced number of hours at the time the reduction in productive hours is made. A part of this difficulty may sometimes be solved by requiring that such employees be paid for the time lost due to the enforced reduction of productive hours. The amount paid to employees for the time they do not work will depend upon the profits accruing to the employer by reason of the excess productive hours, and whether all or only a part of his employees benefited by the excess time.

FAILURE TO KEEP PROPER RECORDS,

WHERE THE CODE REQUIRES THE KEEPING OF SUCH RECORDS

Where the code requires that certain records be kept and the employer has failed to keep such records, the burden of disproving the allegations of a complaint for wage or hour violation should be placed upon the employer. The failure to keep proper records creates a particularly difficult problem in the case of piece workers, and the burden of establishing that a piece worker did not work the full plant hours should be placed upon the employer in such a case.

In other words, a piece worker should be paid the minimum rate for the plant hours during which he was on the premises and available for work, unless the employer affirmatively establishes that the piece worker was not required to be on the premises during all of these hours, and that the piece worker had prior notice so that he was in fact free and in a position to take advantage of the opportunity to leave the premises. No deductions from working time should be permitted for periods of time so brief that the piece worker could not leave the premises.

Where proper records have not been kept the following quiestions must be considered: does such failure constitute a violation of the code; was such failure deliberate; and particularly, was such failure intended to conceal violations of substantive labor provisions.

SUGGESTIONS AS TO TECHNIQUE OF ADJUSTMENT

OFFICE COMPLAINTS

Complaints may be filed by members of the Compliance Office on the basis of information indicating Code violations. Office complaints, when approved for investigation by the Labor Compliance Officer will be docketed and followed up in the same manner as other complaints.

Office complaints may be filed for types of cases such as the following:

When an employee reports conditions which if substantiated would constitute a Code violation, but refuses to sign a complaint for fear of discharge.

Where a complaint is rejected as deficient but the office considers that the situation should be investigated.

Where an individual complaint has been substantiated and the adjuster considers that violations probably exist in other establishments under the same management.

Where repreated rumors exist as to violations in an establishment, industry or locality.

Where an employer, seeking information, indicates that he is not complying with the Code.

Office complaints will be entered on the suggested Form.

OBTAINING COMPLAINANT'S STATEMENT

WAGE AND HOUR COMPLAINTS. Most complaints relate to violations of wage or hour provisions of the Codes and, if substantiated, constitute claims for restitution of back wages. These cases can be handled more definitely if at the time of filing complaint, the complainant furnishes specific information as to type of work performed, period of employment, hours worked and wages received. The suggested form INFORMATION ON HOURS AND WAGES, provides for information necessary for computing the complainant's claim for back wages and for checking wage and hour conditions affecting other employees in the establishment.

If the complainant comes in person to the office to file complaint he should be assisted in filling out this form, which will be attached to the complaint. If a Wage or Hour complaint is received by mail, which does not contain the necessary information, the blank can be mailed to the complainant for the additional information, along with the usual acknowledgment of receipt of the complaint.

DISMISSAL COMPLAINTS. Complaint that an employee was discharged for filing a complaint with NRA, or for suspicion of having filed such a complaint, should contain information as to the length of employment previous to discharge, date of filing original complaint, date of dismissal, and circumstances of dismissal. The suggested form, DISMISSAL SUMMARY, should be filled out and attached to the complaint.

PERSONAL CONTACT WITH EMPLOYERS. In actual practice most adjustments of complaints are effected through personal contact with employers, either at the Compliance Office or in their own establishments. Complaints against establishments within reasonable distance of the Compliance Office will be handled direct from the office. More distant territory will be covered either by field adjusters stationed in other cities, where the volume of activity warrants, or by adjusters making field trips.

Correspondence with an employer in connection with a complaint is ordinarily only preliminary to a personal conference. Particularly in small establishments it has been found that the receipt of a letter from the Compliance Office notifying the employer that a complaint as to wages or hours has been filed against him, has frequently resulted in unfortunate consequences. Employees have been questioned and the source of complaint discovered. An inharmonious situation has been created which ultimately results to the disadvantage, if not in the dismissal, of the complainant.

To avoid this situation a number of the offices have found it advisable either to send a field adjuster to call on the employer without preliminary correspondence, or to make the first letter of the employer merely a brief invitation to call at the Compliance Office. In the resulting interview hours of work and scale of wages are discussed and the situation can be cleared or adjusted frankly and without resentment, since the adjuster has the opportunity to seek the employer's cooperation before he has built up an attitude of resentment and defensiveness.

The Compliance Officer is under no obligation to establish the fact that a complaint has been filed. For the protection of the complainant it is advisable in many instances not to inform the employer that a specific complaint has been filed against him. It is desirable also never to allow discussion of the source of complaint but to concentrate on a discussion of the facts as to Code requirements and the conditions in the employer's establishment.

The employer can be told that experience has disclosed that code violations have been committed by many employers through inadvertence or misunderstanding of code provisions. In order to prevent inadvertent violations from occurring, the office is making an effort to insure that employers know both the provisions of their codes and their responsibilities under their codes. The employer can be asked if he understands his code, if he has posted the labor provisions of his code, if he maintains a systematic record of the hours and wages of his employees. In conducting the interview, it should be assumed that the employer is complying until proven otherwise. Under this assumption it is entirely proper for the Compliance Office to ask the employer for a certified copy of his hours and wage record, or other evidence that he is complying.

If the facts warrant the statement, the employer can be told that there are frequent rumors of violations in the employer's industry, that such rumors are harmful to business and that the office is accordingly undertaking an independent investigation in the interest of employers in the industry. The employer can also be told that now after several months' operation under approved codes, the office is making a survey to secure affirmative evidence of compliance.

OUTLINE OF INFORMATION TO BE SECURED FROM EMPLOYER

In office interviews the use of the suggested form, Employer Interview on Wages and Hours will be found helpful in securing desired information and in keeping the employer from digressing into irrelevant discussions. Where necessary he may be reminded courteously that he is wandering away from the outline of information needed to clear the situation. Also, a record of the salient points in the statement of the employer should be made. The notations to be made on this Outline are brief and the definite information thus secured will be found basic to establish the fact of compliance or to adjust the complaint. In certain industries additional items may be needed and outlines for those special industries may be developed as found desirable.

In all interviews at the establishment the adjuster should of course secure the information called for on the Adjuster's Report Form (10-2137)

ATTORNEYS REPRESENTING EMPLOYERS

Most of the field offices have found it desirable to discourage the practice of having attorneys represent employers in cases where the employer is charged with Code violation. The disadvantages of dealing with attorneys are they many times have no first-hand knowledge of the facts, or they wish to debate questions of law, or they otherwise impede the ascertainment of the facts and securing of adjustment in their desire to protect the "legal rights" of their clients.

Several of the field offices have practically eliminated attorneys by emphasizing the fact that they desire to discuss cases on the basis of facts, by refusing to discuss constitutional points, and by suggesting that an employer who is not violating will not employ an attorney to raise legal issues.

ADJUSTMENT OF WAGE AND HOUR COMPLAINTS

If it appears that the employer is accurately informed as to Code provisions governing conditions in his establishment and his statement as to the scale of hours and wages in his establishment conforms to Code standards he can be requested to file a copy of his current payroll as evidence of compliance. If this payroll indicates no violations, and if the complainant has no information to prove that the payroll is inaccurate, the case may be closed as "no violation."

If in the interview the employer indicates that he is not accurately informed as to Code provisions or as to wages and hours prevailing in his establishment, or if he admits non-compliance, or if the payroll which he files indicates violations, it will be necessary to have his payroll checked back to the adoption of the Code, and a proper accounting made as to all back wages due. The State Director will use his judgment as to whether this computing and payment of back wages should be supervised by the Compliance Officer. In flagrant cases it may be necessary to have the wage restitution computed by a certified public accountant, at the expense of the employer.

COLLECTION OF BACK WAGES FOR DISCHARGED EMPLOYEES

A large portion of the cases in every office relate to collection of back wages for discharged employees. In such cases it is frequently difficult to establish the facts, particularly as to hours and length of time worked by the complinant, since the records are incomplete and the statements of employer and employee differ widely.

The most expetitions manner of handling cases involving a wide discrepancy in statements as to the facts is to have a hearing before the State Adjustment Board, and have the Board make a judgment. In these hearings the Board can frequently make its judgment as to the facts most satisfactorily by hearing both employer and employee together.

It should be clearly understood that any civil rights an employee has as regards payment of back wages are not prejudiced by the State Adjustment's approval of less than 100% restitution.

REINSTATEMENT OF DISCHARGED EMPLOYEES

Under the special order of the President dated May 15, the dismissal or demotion of an employee for filing a complaint is made a violation of the Code and subject to penalty. The possibility of bringing suit will aid materially in flagrant cases.

In numerous cases the employer claims that discharge was for inefficiency or other justifiable cause and the facts cannot be determined with certainty. The State Adjustment Board, as a body representing industry and labor, can usually handle these cases more effectively than can an individual adjustor. The judgment of the Board as to the motive for the discharge will carry more weight with the employer, and the Board can more effectively ask the cooperation of the employer in establishing harmonious conditions which will make reinstatement more than temporary. In some cases where it seems impossible to reinstate the employee on a harmonious basis the employer will cooperate inassisting the employee to secure other work by giving recommendations, or otherwise.

Decision by the State Adjustment Board will enable cases to be closed which otherwise are burdening the active file. It is suggested that a summary and analysis be made of all cases of discharged employees and the Board be asked to give special consideration to the subject. In preparing a summary, Dismissal Summary forms should be used.

POSTING OF LABOR PROVISIONS OF THE CODES

Definite knowledge of the labor provisions of the Codes is fundamental to observance and the posting of the labor provisions is a practical means to secure compliance with Code regulations. Employees know what hours they are expected to work, and the minimum wage they are to receive, and the fact that the matter is understood tends strongly to prevent violations.

Posting of labor provisions should be noted in connection with all complaints and investigations. Failure to post is not only a violation

in itself but also an indication of looseness of operation which may readily lead to violation of provisions.

EVIDENCE OF COMPLIANCE AND ADJUSTMENT

Some of the offices have been closing cases on receipt of a general statement from the employer to the effect that he is complying with the Code. In some instances further investigation has revealed the fact that violations existed at the time the employer made the statement and the employer then pleaded ignorance of Code provisions or if condition in his own plant. Even when the statement has been in the form of an affidavit this has happened.

If the complaint sets forth a condition that constitutes a violation it is best to examine the original records, or secure a certified copy of the original records, or at least secure a written Statement of Compliance, covering the points enumerated on the suggested form -

In all cases where a violation has been found in addition to adjustment assurance should also be given by the employer that proper steps have been taken to prevent violations in the future. This assurance should cover the points enumerated on the form for Statement of Compliance. The State Director will use his judgment in asking that this statement be sworn.

No case where a violation has been found should be filed as adjusted unless the record includes satisfactory evidence that all of the terms of a settlement have been fully complied with. Thus, if the settlement includes payment of back wages in installments the case will not be considered adjusted until proper evidence has been submitted that the final installment has been paid, or unless sufficient security has been furnished to insure full payment.

HANDLING OF PRA CASES

With the retirement of the local Compliance Boards the responsibility for handling cases under the PRA devolves upon the State Compliance Offices.

Compliants of violation of PRA will be entered upon regular complaint forms and will be handled in the same manner as Code complaints, except that they will not be docketed.

Violations of PRA are subject ot the penalty of the removal of the Blue Eagle by the National Compliance Division, but may not be referred by State Director, under Administrative Order No. X-14, for prosecution to the United States Attorney.

PROSECUTION OF CODE VIOLATIONS

All cases of repeated violations, which seem to indicate that the employer does not intend to comply with the Code to which he is subject, should be referred to the State Adjustment Board, the Compliance Division at Washington, or the appropriate U. S. District Attorney, whichever of these agencies the State Director deems proper under the circumstances.

In making adjustments of complaints of Code violations it should always be borne in mind that such adjustments are made by NRA so that the employer may continue as a member in good standing in his industry, be privileged to display NRA insignia; use NRA LABELS in appropriate cases; and be qualified to bid on government contracts. It should be distinctly understood in all cases that such adjustments do not foreclose the possibility of action by the law enforcement agencies of the government.

Adjustment of a complaint by an employer will naturally be taken into consideration by NRA in determining whether prosecution will be resorted to, but an adjustment should not be looked upon as an agreement by NRA not to refer the case for prosecution, and employers should be informed of this fact. This is particularly true in the case of a deliberate violation, and more particularly when the employer has attempted to conceal the violation. Repeated violations should be presumed to have been deliberate.

CASE RECORDS

The case record of a complaint should include the necessary papers covering the following:

1. The facts in the case
2. The details of the adjustment
3. The evidence that the terms of adjustment have been completely carried out.

The use of certain forms insures a systematic handling of cases and furnished the necessary record at a minimum expenditure of time and effort. The following series of records have been developed from the experience of the field offices. Each case record should include the following:

1. Complaint, printed form or Office Complaint form
2. Face sheet
3. Letters and carbons of letters exchanged
4. Record of interviews and telephone conversations
5. Employer's statement of compliance

Wage and Hour complaints should also include:

1. Information on Hours and Wages (from complainant)
2. Employer inte view on Hours and Wages, or Adjuster's Report.

3. Payroll
4. Receipt or other evidence of payments

Cases of Dismissal for NRA complaint should include:

1. Dismissal Summary

The Offices have been supplied with the following forms:
Complaint
Adjuster's Report
Face Sheets
Specimen copies of additional case record forms are given on the following pages. These can be mimeographed by offices which have not already developed corresponding forms.
Office Complaint
Information on Hours and Wages.
Dismissal Summary
Employer Interview on Wages and Hours
Record of Interview
Statement of Compliance
Payroll Form

NATIONAL RECOVERY ADMINISTRATION

Office Complaint

of Violation of Code of Fair Competition for the

_____Trade/Industry.

Date_____

Establishment_____

Address_____

Nature of Business_____

Code_____

Statement of the indications of Code violation:

_____
Adjuster

Approved for investigation--

_____

_____
L. C. O.

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INFORMATION ON HOURS AND WAGES
(For Confidential Use of Compliance Office Only)

Date_____

Establishment_____

Address_____

Business_____

Does employer display Blue Eagle?_____

Employee's name_____

Address_____ Telephone_____

Type of work performed?_____

Date employed_____ Still employed?_____

If no longer employed, did employee quit?_ Discharged?_____

Date of ceasing employment_____

Length of time employed__yrs._____mos.____wks.

Hours worked by employee weekly_____

How many weeks have you worked these hours?_____

Wages received weekly_____

How many weeks have you received this rate of pay?_____

Do Wage and Hour violations apply to other workers in the establishment?__

If so, to what groups?_____

_____
Complainant's signature

.....

(To be filled out by Compliance Office)

Code_____ Effective date_____

Hours permitted weekly_____
Excess hours worked weekly_____
Number of weeks excess hours worked_____
Wages
Code minimum_____
Difference between minimum and wage received_____
Number of weeks worked at less than minimum_____
Balance due complainant_____ Interviewer_____

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DISMISSAL SUMMARY

Case No._____ Establishment_____

Code_____

Complainant:

Name_____

Occupation_____

Length of employment previous to discharge_____

Date of filing complaint_____

Date of dismissal_____

Employee's statement as to dismissal_____

_____

.....

(To be filled out by Compliance Office)

Were charges of complaint substantiated?_____

_____

Note: Under Executive Order the dismissal of complainant is a violation of the Code, regardless of verification of charges.

Employer's explanation as to dismissal_____

_____

Adjuster's opinion as to this explanation_____

_____

Has complainant secured other work since dismissal?_____

NOTES OR RECOMMENDATION: L.C.O._____

_____

_____

EMPLOYER INTERVIEW ON WAGES AND HOURS

Date_____

Establishment_____

Person Interviewed_____ Position_____

Code (s) Applicable_____

Is employer familiar with Code hours and wages?_____

WAGES:

Is general scale of wages at Code minimum?_____

Is general scale of wages above Code minimum?_____

If there are exceptions from the Code, employer's explanation_____

_____

_____

HOURS:

Is general scale of hours at Code maximum?_____

Is general scale of hours less than Code maximum?_____

If there are exceptions to Code maximum, employer's explanation_____

_____

_____

What system of time recording?_____

Who is responsible for seeing that no violations occur?_____

Payroll requested for period_____to be filed with

Compliance Officer before_____

Remarks_____

_____

_____

_____
Interviewer

RECORD OF INTERVIEW

Date:_____

If relative to a case give identification:

Personal call_____
Telephone call_____

Docket No._____

Complainant_____

Employer_____

PERSON INTERVIEWED:_____

Connection with the case:_____

Statement:

Interview taken by_____

STATEMENT OF COMPLIANCE

This statement is to be written on Establishment letterhead and addressed to the State Compliance Director.

This establishment is engaged in the_____ business, which is governed by the _____Code.

I fully understand the provisions of the above Code.

The Wage and Hour provisions of the Code have been posted in a place where all employees may have access to them.

An adequate system of wage and hour records is in operation, covering all employees.

Payrolls have been checked back to the date of adoption of the Code,_____, and all past violations have been corrected.
(date)

I have instructed all subordinates in charge of employment conditions to comply with all Code provisions; and I will be personally responsible for Code compliance in the future.

_____
Signature

_____
Position

PAYROLL FOR

Docket No._____

Establishment_____ Address_____

Industry_____ Code_____

Payroll for week ending_____

Name	Sex M or F	Classification	Total Wkly Hours	Rate of Pay	Total Wkly Earnings	Code Max. Wkly. Hours	Code Min. Wage Rate	No. Hours O.T.	Difference between Min. & Amt.Paid

In the margin check Learners "L", and Handicapped workers "H"

Above payroll checked by_____

Organization of Adjustment Staff

STAFF MEETINGS

Regular meetings of the adjustment staff provide a means of pooling experience, developing effective practices, and keeping the staff abreast of new developments. Meetings should usually be held once a week. To secure uninterrupted attention staff conferences will have to be held outside of regular working hours. The Labor Compliance Officer should organize the staff conference so that discussion can be made most profitable. Discussion of adjusted cases by a skilled and experienced adjuster offers a practical means for familiarizing the less skillful adjusters with successful methods of adjustment, and group discussion of a difficult pending case often develops suggestions for handling the case.

SPECIALIZING ON CODES

In offices employing a number of adjusters it will usually be found effective to have some at least of the adjusters specialize on certain codes. Selection should be made on the basis of previous experience or special fitness.

By this concentration of attention an adjuster will gain familiarity with the special practices, methods of operation, seasonal variations and general employment conditions in an industry. He will become personally acquainted with officials in unions and trade associations affecting the industry, and will gain other sources of information.

ADJUSTER'S DAILY RECORD

In the organization of adjustment work the Labor Compliance Officer will be assisted by having a daily record of the work of each adjuster, whether in the office or in the field. For this purpose the use of the accompanying form is suggested, and notations on this form can be made by the adjuster with little expenditure of time.

These summaries will indicate to the Labor Compliance Officer how he can help the individual adjusters to more effective use of time.

ADJUSTER'S DAILY RECORD

Date__________________________

Cases Handled (List docketed cases by no. PRA cases by respondent.)	Letter to: Complainant	Letter to: Respondent	Office Interview: C	Office Interview: R	Telephone Conversation: C	Telephone Conversation: R	Field Interview: C	Field Interview: R	Case Closed	Other Action

Approximate time spent on taking complaints or work other than handling docketed or PRA cases --------hours.

____

Adjuster

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ADJUSTER'S INTINERARIES

To save time and travel expense field trips of adjusters should be planned systematically. For scattered complaints a wall map mounted on beaver board will be found helpful, and colored pins may be used to mark localities where a field visit is required.

When an adjuster leaves on a field trip the office should have a record of the cases he is to work on, the city where he will be working each day and a specific address where he may be reached each night. If developments in the field make necessary changes in the adjuster's itinerary after he has started on his trip he should inform the office of the changes.

Adjusters stationed in the field should file with the office each week a record of their expected activities for the coming week.

The accompanying form provides spaces for the necessary notations.

FIELD ADJUSTER'S ITINERARY

Week Beginning_____

	City	Specific Address that night	Cases to be investigated
Sun.			
Mon.			
Tues.			
Wed.			
Thurs.			
Fri.			
Sat.			

THE USE OF STATE ADJUSTMENT BOARDS

It is recommended that the State Adjustment Boards be asked to hold regular meetings. By reserving a regular date, time can be given by the members with less inconvenience. The latter part of the afternoon is usually the most advantageous time. Cases should be scheduled for prompt and businesslike hearing so that the time of the Board members may be utilized without waste.

TYPE OF CASES TO BE HEARD BY STATE ADJUSTMENT BOARDS

All cases which cannot be adjusted in accordance with the standards set forth under "What Constitutes Satisfactory Adjustment" as well as cases in which there is wide conflict in statements of facts shall be referred to the State Adjustment Board.

Where the number of cases which should be presented to the State Adjustment Board is more than the Board can reasonably be asked to hear the Board may delegate the hearing of a portion of these cases to the Labor Compliance Officer. A summary of the adjustment made in all such cases shall be presented to the State Adjustment Board at its next meeting.

PUBLICITY AS TO ACTION OF THE STATE ADJUSTMENT BOARD

Hearings of the Board are ordinarily conducted in private but open hearings may be held in the discretion of the Board. Information as to action or recommendations of the Board will be given out only by order of the Board.

PROCEDURE IN REFERRING CASES TO ADJUSTMENT BOARDS

In order that cases may be most expeditiously disposed of, the following procedure is suggested:

Arrangements should be made for cases to be heard according to fixed schedule. The respondent and complainant in each case should be requested to be present at a specified time unless the complainant's presence at the hearing would be detrimental to his interests.

A brief typewritten outline of the salient facts in the case should be submitted to the members in advance of the hearing.

The labor compliance officer (or the adjuster who handled the case) should make a brief fact-statement to the board before each case is heard if it seems necessary to supplement the information given in the outline.

The Board should thereupon interview the respondent (and) complainant) at the conclusion of which the Board, in executive session, should make its determination. The decision should be made a matter of written record.

If the State Director is available and accepts the recommendation of the Board the case can be completed immediately. The respondent and complainant (together or separately at the discretion of the Board) should be recalled, the decision read to them and their assent secured. If the case involves restitution of back wages, payment, preferably by checks, should be made immediately if possible in order that final adjustment of the case can be effected without further negotiations.

The conduct of the hearing should be orderly and dignified, but insofar as possible it should be in the nature of a conference rather than a trial.

COOPERATION WITH OTHER AGENCIES

In order to secure the observance of Code standards it is essential that the Field Offices maintain active cooperative relationships with public and private agencies. The Recovery Program is a national undertaking and its success depends largely upon the active participation of the general public. While the correction of violations is the specific task of the Compliance offices, the State Director should not overlook the possibilities for establishing proper labor standards and thereby preventing violations of the Codes.

COOPERATION WITH FEDERAL, STATE, COUNTY AND MUNICIPAL CONTRACTING AGENCIES

By Executive Order work under government contracts shall be performed in accordance with applicable Code standards. Active cooperation with Home Owners Loan Corporation, Public Works Administration and other emergency services offers opportunities for assisting these agencies to better administration of the Executive Order.

In various states cooperation with State, County and Municipal agencies, such as Purchasing Departments and Highway Commissions, has secured the adoption of NRA clauses in their purchase contracts and operations. This practice should be made general and the local government authorities may be assisted in securing effective administration of such provisions.

COOPERATION OF EMPLOYMENT AGENCIES

To secure compliance with Code standards it is essential that employment agencies should not supply workers for jobs at rates lower than provided under the Code.

The Federal Re-employment Service is instructed not to fill jobs at rates lower than the Code minimum; and many private agencies have volunteered to observe the same practice.

The State Director may properly ask this cooperation of employment agencies in maintaining standards. Usually this may be done most easily by first contacting the larger agencies individually and gaing their promise to cooperate, and then by calling a conference of all agencies in the community which place workers in jobs covered by Codes.

COOPERATION WITH STATE LABOR DEPARTMENTS

In certain states close cooperation relationships have been developed between the NRA offices and the State Labor Departments, and inspectors of the State Department aid materially in furnishing general information, reporting violations, and securing information relative to specific complaints particularly in localities distant from the NRA office. Studies have been made by the State Departments of wages and hours in special industries which furnish basic data as to working standards, Code compliance and violations.

COOPERATION WITH REGIONAL LABOR BOARDS

Code violations frequently occur in connection with labor disputes. Cooperation with the Regional Labor Board and an exchange of information will be helpful to both agencies.

COOPERATION WITH CODE AUTHORITIES

Close contact between the Field Offices and the Code Authorities located in their areas is essential to effective administration. Assistance by the Field Office in the organization of Code Authorities, general meetings with Code Authorities and conference with specific groups will aid in promoting understanding and securing compliance. Where an effective relationship exists the Code Authorities have proven very helpful in educating their members as to labor provisions, in assisting the offices to secure compliance and in reporting violations over which they have no jurisdiction.

COOPERATING WITH INDUSTRIAL AND LABOR GROUPS

Contact with industrial and labor groups offers and opportunity for educating their members as to Code provisions. Trade unions particularly are in a position to furnish information as to current wage and hour rates, and to report violations which an individual worker may be reluctant to report.

APPENDIX 3 (a)
NATIONAL RECOVERY ADMINISTRATION

December 8, 1934

MEMORANDUM

To: Chief of the Compliance Division

FROM: Compliance and Enforcement Director

Subject: Establishment of a System of Regional Administration. Procedure to be followed in Withdrawal and Registoration of Right to Display Blue Eagle and in Certain Cases to Obtain or Use NRA labels.

1. Regional Administration

In order to increase the effectiveness of Compliance Administration and Enforcement, I hereby authorize you to take all steps necessary to establish and administer a system of Regional Administration along the following lines, subject to my general supervision and direction:

As soon as is practicable, you are to divide the United States into regions. The number and boundaries of the regions and the location of the Regional Office in each are to be determined by you, and you may thereafter change their boundaries and the location of the Regional Office. Each Region will be headed by a Regional Director, to be appointed by me but subject to your direct supervision. The official residence of each Regional Director will be in the city in which his Regional Office is located. To the extent which you consider desirable, each Regional Director will have the following general powers and functions within his Region on behalf of NRA:

(1) To direct and be responsible for the activities of NRA with regard to compliance administration and to cooperate with the Litigation Division in its activities.

(2) To withdraw and restore the right to display the Blue Eagle.

(3) To refer to the proper United States Attorney, through the member of the Litigation Division assigned to the Region, cases of noncompliance with the request that civil or criminal proceedings, or both, be instituted pursuant to Section 3(c) and 3(f) of NIRA.

(4) Such other functions and powers as may be conferred upon him.

You may in your discretion withhold any of the above functions and powers, and you may grant some Regional Directors more powers and functions than others. You are to appoint the necessary

executive staff and personnel for each Regional Office. You may maintain the existing system of State NRA Compliance Offices, with authority to alter them and the functions and powers now possessed by all or any State NRA Compliance Directors to the extent you deem necessary.

II. Withdrawal and Restoration of Blue Eagle and in Certain Cases NRA Labels.

I hereby authorize you to prescribe and administer, subject to my general supervision and direction, a procedure to be followed by NRA Regional Directors, and if you deem it necessary, by certain State Directors, in withdrawing and restoring the right to display the Blue Eagle. The right to display the Blue Eagle may be withdrawn or restored in any case by me or by you on my behalf when I so instruct you and any procedure prescribed by you under this paragraph shall in no way restrict my freedom of action.

Whenever there is a finding by the National Labor Relations Board that any person has committed any act constituting a breach of the conditions upon which he is entitled to display the Blue Eagle or to obtain or use NRA labels, you are authorized to take on my behalf all steps, including withdrawal of the right to display the Blue Eagle or to obtain or use NRA labels, which you consider necessary to carry out the decision which I make after a consideration of the case and the finding. You may thereafter on my behalf restore any such right to such a person whenever you think such action is in the interests of sound administration.

Whenever there is a finding by the Chief of the Compliance Division, or by the Contributions Section thereof, that any person is in default in his obligation (as defined in Executive Order No. 6678 and Administrative Order No. X-36) to make payment of a contribution to a Code Authority, you may on my behalf deprive such person of the right to display the Blue Eagle and to obtain or use NRA labels and may take any other action deemed necessary by you. You may thereafter on my behalf restore any such right to such a person whenever you think such action is in the interests of sound administration.

Communications withdrawing or restoring the right to display the Blue Eagle and to obtain or use NRA labels, and other communications signed by you on my behalf hereunder shall be signed:

By direction of the Compliance and Enforcement Director:

(Insert Name)
Chief, Compliance Division.

Nothing herein deprives State NRA Compliance Directors of the authority heretofore conferred upon them to withdraw and restore the right to display the Blue Eagle in cases of violations of certain service

codes and the Restaurant Code. However, you are authorized to deprive all or any of the State Directors of such authority whenever you deem such action advisable.

(Signed) Sol A. Rosenblatt

Sol A. Rosenblatt
Director of Compliance and
Enforcement.

SPECIAL MEMORANDUM NO._____

November 16, 1934

TO: L. J. MARTIN, Chief of Compliance Division

FROM: W. A. HARRIMAN, Administrative Officer

SUBJECT: Authority of the Chief of the Compliance Division with Reference to Blue Eagles and Labels

The authority of the Chief of the Compliance Division with reference to removal and restoration of the Blue Eagle or other NRA insignia and the issuance and use of NRA labels, including the authority heretofore delegated to the Chief of the Compliance Division by the Assistant Administrator for Field Administration and otherwise, will be exercised until further notice as follows:

The Chief of the Compliance Division may designate a Compliance Council, to sit in one or more Parts, each Part to be composed of an equal number of representatives of industry and labor and each Part to include an impartial chairman if the Chief of the Compliance Division considers it advisable. The powers and duties of the Compliance Council will be to hear and consider the evidence in cases in which the Compliance Division or an Industry Division recommends removal of the Blue Eagle or other NRA insignia or withholding the issuance or use of NRA labels; to make recommendations to the Chief of the Compliance Division as to findings of fact and as to action with respect to such cases; and to consider and make recommendations with respect to such other matters as may be referred to it by the Chief of the Compliance Division.

Whenever there is a finding by the Chief of the Compliance Division, after consideration of the recommendations of the Compliance Council, and whenever there is a finding by the National Labor Relations Board, that any person has committed any act constituting a breach of the conditions upon which he is entitled to display the Blue Eagle or other NRA insignia or to obtain or use NRA labels, and whenever there is a finding by the Chief of the Compliance Division or by the Contributions Section thereof that any person is in default in his obligation (as defined in Executive Order No. 6678 and Administrative Order No. X-36) to make payment of a contribution to a Code Authority, the Chief of the Compliance Division may notify such person that he has been deprived of the right to display any Blue Eagle or other NRA insignia or to obtain or use NRA labels and may notify the appropriate Code Authority to withhold the issuance of labels to such person. The Chief of the Compliance Division, without hearing or recommendation by the Compliance Council, may thereafter give notice of the restoration of any such right to such a person and may give notice to the appropriate Code Authority to resume the issuance of labels to such a person, whenever he thinks that any such action on his part is in the interests of sound administration.

NATIONAL RECOVERY ADMINISTRATION

January 1, 1935.

MEMORANDUM

TO: Merton Emerson, NRA Regional Director, Region 1.

FROM: L. J. Martin, Chief, Compliance Division.

SUBJECT: Functions and Powers of the Regional Director.

Pursuant to authority vested in me by the Compliance and Enforcement Director, I hereby confer upon you the following functions and powers to be exercised within your Region.

1. To direct the activities of NRA with regard to compliance administration and to cooperate with the Litigation Division in its activities.

2. To direct the activities of the State NRA Compliance Directors in your Region with authority (in addition to the other powers herein conferred upon you) to exercise any of the powers that have heretofore been conferred upon State Directors.

3. To withdraw and restore the right to display the Blue Eagle, after consideration of the recommendations of your Regional Compliance Council.

4. Through the member of the Litigation Division assigned to your office, to refer cases of non-compliance to the proper United States Attorney, with the request that civil or criminal proceedings, or both, be instituted pursuant to Section 3(c) and 3(f) of the NRA. This does not deprive State Directors of the authority heretofore conferred upon them in this regard.

5. To direct the activities and personnel of the Regional Office for your Region, which Regional Office shall be located at Boston, Massachusetts. Your official residence will at all times be in the city in which the Regional Office is located.

Nothing herein deprives State NRA Compliance Directors of the authority heretofore conferred upon them to withdraw and restore the right to display the Blue Eagle in cases of violations of certain service codes and the Restaurant code.

L. J. Martin,
Chief, Compliance Division.

All such notifications shall be signed:

By direction of the National Industrial Recovery Board:

Chief, Compliance Division

By direction of the National Industrial Recovery Board:

(Signed) W. A. Harriman

W. A. Harriman
Administrative Officer

January 1, 1935

Mr. Merton Emerson
Room 1200
80 Federal Street
Boston, Massachusetts

Dear Mr. Emerson:

I hereby appoint you NRA Regional Director for Region 1. This Region, subject to change, consists of the States of Maine, New Hampshire, Vermont, Massachusetts, Rode Island, and Connecticut. Your functions are, within your Region, to direct and be responsible for the activities of NRA with regard to compliance administration and to cooperate with the Litigation Division in its activities. The Chief of the Compliance Division will confer upon you the powers necessary to the execution of these functions and you will be under his direct supervision.

Very truly yours,

Sol A. Rosenblatt
Compliance and Enforcement Director

NATIONAL RECOVERY ADMINISTRATION
Washington, D. C.
December 29, 1934

TO: ALL CODE AUTHORITIES

In order to increase the effectiveness of field administration and and enforcement, and in accordance with the previously announced policy of decentralizing the activities of the Compliance Division, the following Regional Offices for Compliance and Enforcement have been established:

Region No. 1 — Merton L. Emerson, Regional Director
80 Federal Street,
Boston, Massachusetts.

States: Massachusetts
Maine
New Hampshire
Rhode Island
Vermont
Connecticut

Region No. 2 — (Not yet set up)

States: New York
New Jersey

Region No. 3 — (Not yet set up)

Washington, D. C.

States: Delaware
District of Columbia
Maryland
Pennsylvania
North Carolina
Virginia

Region No. 4 — William L. Mitchell, Regional Director
625-637 Citizens & Southern National Bank Bldg.,
Atlanta, Ga.

States: Alabama
Florida
Georgia
Mississippi
Tennessee
Louisiana
South Carolina

Region No. 5

Benedict Crowell, Regional Director
Bulkley Building
Cleveland, Ohio

States: Kentucky
Michigan
Ohio
West Virginia

Region No. 6

C. F. Rumely, Regional Director
Wrigley Building
Chicago, Illinois

States: Illinois
Indiana
Missouri
Wisconsin

Region No. 7

A. F. Cook, Regional Director
511 Federal Building
Omaha, Nebraska

States: Colorado
Iowa
Nebraska
North Dakota
South Dakota
Minnesota
Wyoming
Kansas

Region No. 8

Ernest L. Tutt, Regional Director
Republic Bank Building
Dallas, Texas

States: Arkansas
New Mexico
Oklahoma
Texas

Region No. 9

Donald Renshaw, Regional Director
Humboldt Bank Building
San Francisco, California

States: California
Arizona
Idaho
Montana
Nevada
Oregon
Washington
Utah

It will be noted from the above that Regions 2 and 3 have not, as yet, been set up and states under these two regions will continue to handle all matters with Washington, D. C.

The Regional Director for Compliance and Enforcement will have the following functions and powers on behalf of NRA within their Regions:

1. To direct and be responsible for compliance administration.

2. To cooperate with the NRA Litigation Division.

3. To cooperate with the regional offices for code administration.

4. To direct and supervise the State NRA Compliance Directors in their Regions, with authority (in addition to the other powers mentioned herein) to exercise all the powers heretofore conferred upon State Directors.

5. To withdraw and restore, after consideration of the recommendations of their Regional Councils, the right to display the Blue Eagle.

6. Through the Litigation Division Attorney assigned to the Region, to refer cases of non-compliance to the proper United States Attorney with the request that civil or Criminal proceedings, or both, be instituted pursuant to Sections 3 (c) and 3 (f) of NIRA.

7. To direct the activities and personnel of the Regional Offices for Compliance and Enforcement.

Subject to the direction of their Regional Director, State NRA Compliance Directors retain all the authority heretofore conferred upon them including the authority to withdraw and restore the right to display the Blue Eagle in cases of violations of certain Service Codes and the Restaurant Code and the authority to refer cases to the proper United States Attorney with a request for proceedings in court. Cases which the State Directors are unable to conclude will be forwarded to their Regional Director instead of to NRA in Washington, with exceptions mentioned below.

Cases of non-compliance not disposed of at an earlier state of handling will be referred by the Regional Directors to their Regional Compliance Councils which are composed of a representative of employers, a representative of employees and an impartial chairman. Hearings will be held by the Councils in substantially the same manner as hearings heretofore held by the Compliance Council in Washington, D. C. The Regional Compliance Councils will make recommendations to their Regional Directors of findings of fact and of the action which the Councils think the Regional Directors should take, including removal of the Blue Eagle. The decisions of the Regional Directors, made after considering the recommendations of their Councils, will be final. Regional Directors for Compliance and Enforcement have power to remove the Blue Eagle.

All unadjusted cases now pending in NRA in Washington which arose in any of the States now constituting the several Regions are being forwarded to the appropriate Regional Directors of Compliance and Enforcement for disposition, and the source from which the file came to NRA is being informed that further correspondence should be addressed to the Regional Director for Compliance and Enforcement.

Complaints handled by Industrial Adjustment Agencies which the highest Industrial Adjustment Agency in an industry has been unable to adjust should be forwarded to the Regional Director of Compliance and Enforcement for the Region in which the respondent's establishment is located or in which the respondent has his principal office, if it operates more than one establishment. If the Region has not been set up, such cases should be forwarded to NRA in Washington.

The following types of cases will not be handled by the Regional Directors' offices:

1. Unadjusted cases which have been handled by Code Authorities under codes having mandatory label provisions. These Code Authorities will handle such cases through the Label Review Officers and the Compliance Division in Washington.

2. Cases of failure to make equitable contribution to a Code Authority. Such cases should be certified as heretofore to the Contributions Section of the Compliance Division in Washington. Action on removal of the Blue Eagle will be taken in Washington.

3. Cases involving a violation in connection with government contracts, under Executive Order 6646. Such cases, as heretofore, should be referred by the Complainant or by the Code Authority for the complainant's industry directly to the Chief of the Government Contracts Branch, NRA, Washington, D. C.

You will be notified when Regions 2 and 3 have been set up.

Sol A. Rosenblatt,
Complaince and Enforcement Director

NATIONAL RECOVERY ADMINISTRATION

December 10, 1934

MEMORANDUM

TO: NRA Regional Directors

FROM: L. J. Martin, Chief, Compliance Division

SUBJECT: Procedure to be Followed in Withdrawing and Restoring the Right to Display the Blue Eagle.

I. Procedure of Regional Council.

Cases of non-compliance in which withdrawal of the right to display the Blue Eagle may be advisable will be referred by you to your Regional Compliance Council for its recommendation, which will be made after a hearing held in accordance with the following procedure:

A. Notice to Respondent

The respondent must, by telegraph or registered mail, be given reasonable notice of the hearing, with due regard for the time required by him for travel and preparation of the case. The notice should state:

(a) The person or body charging violation by the respondent (such person or body will be either a National or Local Code Authority, a State Director or the Regional Director);

(b) The Code provisions alleged to have been violated and the basic elements of the charge;

(c) The date, place and hour of hearing;

(d) That if the respondent is found guilty of violation the Regional Director may withdraw his right to display the Blue Eagle and refer the case to the United States Attorney;

(e) That the respondent may appear or be represented at the hearing or file a written statement before the hearing; and

(f) That the respondent should state whether or not he will appear or be represented.

A form of such notice if sent by telegram is attached. (Form A).

B. Postponements.

Requests for postponements should be considered by the Regional Council and may be granted or denied in its discretion. The respondent should be given every reasonable opportunity to appear but undue delay or stalling tactics should not be permitted.

C. Procedure of Hearing.

Before the respondent enters the hearing he should be given a copy of Annex A hereto, setting forth the rules of procedure of the Council.

The hearing by the Council is not a public hearing, but the Council may allow interested parties to attend. The hearing should be informal in the sense that it should not be modeled upon court procedure nor resemble a trial or prosecution. However, it should be conducted in orderly fashion with strict regard to the following rules of procedure and any others adopted by the Council, and not along the lines of a conference or conversational meeting. The Chairman should announce the purpose of the hearing. He should also inform the respondent that no stenographic transcript of the proceedings will be made unless the respondent desires to have one and to pay half the expense, in which case arrangements for such a transcript will be made by the Council. He should then request the Legal Adviser (or the member of the staff assigned to that duty) to present the case. If the complainant is present and desires to present his complaint, he should then be given that opportunity. The respondent should then be requested to present his case. Any other person or bodies who desire to be heard should be allowed to state their views if the Council feels that they have a sufficient interest in the case. The Legal Adviser and the complainant are to be given an opportunity to reply to the statements of the respondent. The Council should admit all evidence which it deems proper. Witnesses may be presented by either side and may be cross-examined, the extent of the cross-examination to be subject to the discretion of the Council. The respondent should be given full opportunity to present any proper evidence he may care to offer. The names of the complaining employees or other complainants should not be directly or indirectly disclosed to the respondent even though requested by him, unless their free consent is first obtained. Aside from that restriction, the respondent must be given full opportunity to examine the evidence presented against him and must be permitted to be present during the presentation by the Legal Adviser and during the submission of evidence. Minutes of the hearing should be kept, in the form of a brief summary of what occurs in each case. The respondent should be informed at the outset that no stenographic transcript of the proceedings will be made unless he desires to have one and pay half of the expense, in which case arrangements for such a transcript will be made by the Council. During the course of the hearing the Chairman should endeavor to ascertain (unless the file already shows) whether the respondent operates only one or more than one establishment within the Region and the location of the respondent's head office. If the respondent does not attend, the Council may nevertheless hold a hearing and should follow the above procedure as fully as is possible in view of the respondent's absence.

D. Decision of Council.

If the Council concludes that, on the evidence before it, there has been no violation, its decision will consist of a finding of fact to that effect, and such a finding is binding on the Regional Director. If the Council comes to any other conclusion, its decision will consist of a recommendation to the Regional Director of findings of fact and of action to be taken by him.

The findings of fact should be based only on evidence heard by the Council. They should be sufficiently detailed to give a clear picture of the Council's view of the facts, and should cover such points as: the name, address and form of business of the respondent (i.e., whether an individual, corporation, etc.), the provision alleged to have been violated, cited by Article and Section, the nature of the alleged violation, and the finding on each charge. In case of a finding of violation, the number and location of the respondent's establishments and the location of his head office should also be stated. In making its recommendation of action to be taken, the Council should consider such questions as whether an adjustment should be accepted and on what terms, whether the right to display the Blue Eagle should be withdrawn, whether the case should be referred to a United States Attorney, whether a further investigation is necessary and if so by what agency, and whether publicity should be given to whatever action is taken. The Council may, in its discretion, inform the respondent of the recommendation it will make to the Regional Director. The Council may also offer the respondent an opportunity to adjust the case before it makes a recommendation to the Regional Director. The Council has authority to accept an adjustment of the case in the course of the hearing, in which event no recommendation to the Regional Director need be made.

If the Council finds that on the evidence before it there has been no violation, its findings are final and no recommendations will be made to the Regional Director. The complainant should be advised by letter of such findings.

2. Removal of Blue Eagle.

Except in the situation mentioned in the immediately preceeding paragraph, the Council will make a recommendation to you of findings of fact and of action to be taken by you. Such a recommendation is to be carefully considered by you. However, it is not binding upon you and you may make such other findings and take such other action as you believe are warranted by the evidence heard by the Council and by other circumstances. If the action finally determined by you is withdrawal of the right to display the Blue Eagle, you will telegraph the respondent (in accordance with Form B) informing him that after consideration of the recommendation of the Regional Compliance Council you have found he has violated stated provisions of the Code and that on such finding his right to display the Blue Eagle will be withdrawn five days from date. At the end of the five days period, if no factors have arisen which make you think that withdrawal of the right to display the Blue Eagle would be undesirable you are to telegraph the respondent (in accordance with Form C) withdrawing his right to display the Blue Eagle. Your decision removing the Blue Eagle is final. If the case arose in a state other than that in which your Regional Office is located, you should also telegraph the State Director of that State advising him of your action in removing the Blue Eagle. (Form D) You may yourself give publicity to such action after waiting twelve hours following your telegram to the State Director in order to give priority to local publicity. You should write the appropriate postmaster (in accordance with Form E) advising him of the disposition he should make of any Blue Eagles surrendered to him and requesting a report on whether such surrender was made.

You should telegraph the appropriate Code Authority (in accordance with Form F) advising of your action.

If the respondent asks for a rehearing on the ground of additional evidence or for any other reason, you may grant or deny such a rehearing in your discretion.

3. Restoration of Blue Eagle.

All petitions for restoration of the right to display the Blue Eagle should be filed with the appropriate Regional Director. Such petitions filed with you are to be referred by you to the Regional Council for its recommendation. If, after considering the recommendation, you decide that the right to display the Blue Eagle should be restored, you may restore it by notice in accordance with Form G. The appropriate Postmaster, Code Authority and State Director should be advised by telegram of your action. (Forms H. I. and J.) If, after considering the Regional Council's recommendation, you decide not to restore the right to display the Blue Eagle, you are so to advise the respondent, and your decision is final. If the case is one in which the Blue Eagle was removed by order from Washington and you are in doubt as to whether it should be restored, you are to refer the matter to Washington.

4. Special Procedure Where Respondent Has More Than One Establishment.

The foregoing procedure for removal and restoration of the Blue Eagle applies only to cases in which the respondent operates only one establishment. It must be modified as hereinafter set forth when the respondent operates more than one establishment. In such a case, you will proceed as above with the following changes:

(a) At the time of sending your telegram (Form A) notifying the respondent of a hearing, you will also send a telegram to the respondent's head office (Form K) advising it of the hearing and stating that any resulting order removing the respondent's Blue Eagle may apply to all his establishments. If the fact that respondent operates more than one establishment is not discovered until the hearing and you find a violation, then, at the time of sending your telegram advising respondent of your finding (Form B), you will also send a telegram to the respondent's head office notifying it of the finding and that any resulting order removing the respondent's Blue Eagle may apply to all the respondent's establishments. (Form L.)

(b) If the respondent's head office is in your region, then at the time of sending your telegram removing the respondent's Blue Eagle (Form C), you will also send a telegram to the respondent's head office (Form M) depriving the respondent of his right to display the Blue Eagle at any of his establishments.

(c) If the respondent's head office is not in your region, then at the time of sending your telegram (Form C) removing the respondent's Blue Eagle, you will also telegraph Washington stating:

(i) the respondent's name;

(ii) the address of his head office;

(iii) the address of the establishment where the violation occurred;

(iv) the code provision violated;

(v) the nature of the violation;

(vi) the approximate number of establishments inside and outside your Region;

(vii) that you have deprived the respondent of his right to display the Blue Eagle at the establishment at which the violation occurred;

(viii) your recommendation as to whether your order should be extended to all the respondent's establishments.

The Compliance and Enforcement Director may then, without a hearing, supplement your order, which applies to the establishment where the violation occurred, by a further order removing the Blue Eagle from all the respondent's establishments.

5. Cases in Certain Service Trades and the Restaurant Industry.

Reference to the Regional Compliance Council is not necessary if the case is one in which a State Director has heretofore been authorized to remove the Blue Eagle - i.e., cases involving certain service codes and the Restaurant Code. If there has been no hearing by the Regional Council, any telegrams sent by you in such cases should be modified accordingly.

6. Violation of Executive and Administrative Orders and of the P.R.A.

Removal or restoring of the Blue Eagle in connection with violation of Executive and Administrative Orders, or of the P.R.A. by any person subject to its provisions, is to be in accordance with procedure prescribed above.

7. Relation to Industry Divisions and Industrial Appeals Board. Petitions for Relief.

If the respondent contends that he cannot make restitution and comply with the code or certain of its provisions (or any administrative rulings thereunder, such as interpretations or classifications) on the ground that they are unfair or discriminatory, tend toward monopoly, or work undue hardship upon him, the Council should proceed as follows:

(a) If it decides that the contention is made in good faith and is supported by enough facts to warrant its consideration by the proper authorities and that it would be unfair to remove the respondent's Blue Eagle until the respondent's contention has been considered by the proper authorities, the Council should advise him of his right to petition the NRA Division Administrator for relief and of his right to appeal from the decision of the Division Administrator to the Industrial Appeals Board; and the Council should suspend action in regard to the Blue Eagle and a reference to the litigation attorney pending a final decision of such petition, if it is filed within a time fixed by the Council.

(b) If it decides that the contention is not made in good faith or is not supported by enough facts or that it would not be unfair to remove the respondent's Blue Eagle if he fails to make restitution and comply pending decision on a petition for relief, the Council should advise the respondent of his right to petition for relief and inform him that unless he makes restitution and complies pending a decision on such petition his Blue Eagle will be removed.

8. General.

The above merely prescribes the procedure that should be followed by you in regard to withdrawal or restoration of the right to display the Blue Eagle. It does not establish an exclusive procedure or in any manner bind the Compliance and Enforcement Director or the Chief of the Compliance Division. The right to display the Blue Eagle and other NRA insignia may be withdrawn or restored in any case by the Compliance and Enforcement Director, or on his behalf by the Chief of the Compliance Division, even though the case may be before a Regional Council or Regional Director, whose jurisdiction will cease at the direction of the Compliance and Enforcement Director or the Chief of the Compliance Division.

L. J. Martin
Chief, Compliance Division

ANNEX A

NATIONAL RECOVERY ADMINISTRATION

Important Information to Persons Charged with Violation of an NRA Code, Order or Agreement

Procedure before the Regional Compliance Council.

Read Carefully

Hearings before the Regional Compliance Council are informal. They are not modeled upon Court procedure and do not resemble a trial or prosecution. However, they are conducted in orderly fashion in accordance with the Council's rules of procedure. The hearing is not a public hearing, but the Council may allow interested parties to attend. No stenographic transcript of the hearing will be made unless you desire to have one and pay half of the expense, in which case you should make proper arrangements with the Secretary to the Council before the hearing.

The Chairman will announce the purpose of the hearing. The charges against you will then be presented by the Legal Adviser to the Regional Director or by some other member of the Regional Director's staff. The person who filed the complaint against you and any other persons with a proper interest in the case will be allowed to present facts or make statements. You will then be requested to present your side of the case, which you may do yourself or through a lawyer. The Legal Adviser (or other member of the Regional Director's staff) and the complainant will then be given an opportunity to reply to your statements.

The Council will admit all evidence which it considers proper. Witnesses may be presented by either side and may be cross-examined, the extent of the examination to be subject to the discretion of the Council.

It is the fixed policy of the National Recovery Administration not to disclose the names of complaining employees or other persons without their consent, as experience has shown that disclosure of their names may mean serious injury to them. For this reason, the names of complainants will not be disclosed to you, directly or indirectly, unless the complainants consent.

If the respondent does not attend, the Council may nevertheless hold a hearing and will follow the above procedure as fully as possible in view of the respondent's absence.

If the Council finds that on the evidence before it no violation is proven its findings are final. If the Council finds a violation is proven, its decision will consist of recommendations to the Regional Director. If the Regional Director approves of the finding of violation he may remove the Blue Eagle and refer the case to a United States Attorney.

FORM A

TELEGRAM TO RESPONDENT NOTIFYING HIM OF HEARING TO BE HELD BY THE REGIONAL COMPLIANCE COUNCIL

(National Code Authority or Local Code Authority or State NRA Compliance Director or NRA Regional Director) HAS CHARGED YOU HAVE VIOLATED SECTION____ OF ARTICLE_____ OF _____CODE BY (state alleged violation briefly but with sufficient particularity to inform the respondent of the charges) STOP REGIONAL COMPLIANCE COUNCIL WILL HOLD HEARING ON THIS CHARGE ON (date, place, and hour) STOP YOU MAY APPEAR OR BE REPRESENTED AT HEARING OR FILE WRITTEN STATEMENT BEFORE HEARING STOP IF COUNCIL FINDS VIOLATION REGIONAL DIRECTOR MAY WITHDRAW YOUR RIGHT TO DISPLAY ANY BLUE EAGLE AND MAY REFER CASE TO UNITED STATES ATTORNEY STOP PLEASE ADVISE WHETHER OR NOT YOU WILL APPEAR OR BE REPRESENTED AT HEARING

SECRETARY
NRA REGIONAL COMPLIANCE COUNCIL
REGION_____

FORM B

TELEGRAM FROM REGIONAL DIRECTOR TO RESPONDENT NOTIFYING HIM THAT VIOLATION HAS BEEN FOUND

(To be addressed to the Establishment where Violation Occurred)

AFTER CONSIDERING RECOMMENDATION OF REGIONAL COMPLIANCE COUNCIL FOLLOWING HEARING ON YOUR CASE I FIND YOU HAVE VIOLATED SECTION_____ OF ARTICLE_____ OF _____ CODE STOP ON THAT FINDING YOU WILL BE DEPRIVED FIVE DAYS FROM DATE OF THE RIGHT TO DISPLAY THE BLUE EAGLE

_____
NRA REGIONAL DIRECTOR
REGION_____

FORM C

TELEGRAM FROM REGIONAL DIRECTOR TO RESPONDENT

REMOVING BLUE EAGLE

(To be addressed to the establishment where violation occurred)

ON _____ I TELEGRAPHED YOU THAT AFTER CONSIDER-ING RECOMMENDATION OF REGIONAL COMPLIANCE COUNCIL I FOUND YOU HAD VIOLATED SECTION _____ OF ARTICLE _____ OF _____ CODE STOP ON THAT FINDING YOU ARE HEREBY DEPRIVED OF THE RIGHT TO DISPLAY ANY BLUE EAGLE AND YOU WILL HEREAFTER REFRAIN FROM USING ANY BLUE EAGLE AT YOUR ESTABLISHMENT OR IN ADVERTIS-ING OR IN ANY OTHER MANNER STOP YOU ARE DIRECTED TO SURRENDER IMME-DIATELY TO YOUR POSTMASTER ALL BLUE EAGLES IN YOUR POSSESSION

_____
NRA REGIONAL DIRECTOR
REGION _____

FORM D

TELEGRAM FROM REGIONAL DIRECTOR TO STATE DIRECTOR ADVISING HIM OF BLUE EAGLE REMOVAL

_____
(Name and Address of State Director)

THE FOLLOWING TELEGRAM HAS BEEN SENT TO _____

_____ Quote (Here copy Form C) Unquote

STOP YOU MAY GIVE THIS MATTER SUCH PUBLICITY AS SEEMS ADVISABLE

_____
NRA REGIONAL DIRECTOR
REGION _____

(The Regional Director may add to this telegram any details of the case which he thinks may be of interest locally)

FORM E

LETTER TO POSTMASTER IN CITY OF RESPONDENT

ADVISING HIM OF BLUE EAGLE REMOVAL

Postmaster,

_____

Dear Sir:

(enclosed)
The (following) telegram has been sent today to _____

(Enclose)
_____.(Quote Form C)

Kindly advise us within ten days what action is taken by this concern toward complying with this telegram, stating in particular whether the Blue Eagle is being displayed at the establishment. All Code Blue Eagles surrendered to you should be sent by you to me. All PRA Blue Eagles surrendered should be kept by you.

Yours very truly,

_____
NRA REGIONAL DIRECTOR
REGION _____

FORM F

TELEGRAM FROM REGIONAL DIRECTOR TO CODE AUTHORITY

ADVISING IT OF BLUE EAGLE REMOVAL

_____

(Name and Address of Code Authority)

THE FOLLOWING TELEGRAM HAS BEEN SENT TO _____

_____QUOTE (Here Copy Form C) UNQUOTE STOP YOU MAY GIVE THIS MATTER SUCH PUBLICITY AS SEEMS ADVISABLE

_____

NRA REGIONAL DIRECTOR
REGION _____

FORM G

TELEGRAM FROM REGIONAL DIRECTOR TO RESPONDENT RESTORING RIGHT TO DISPLAY BLUE EAGLE

HAVING RECEIVED YOUR ASSURANCE THAT YOU ARE COMPLYING AND WILL CONTINUE TO COMPLY WITH _____ CODE AND THAT YOU HAVE (State action taken by respondent, as making full restitution of back wages, etc.) I HEREBY RESTORE YOUR RIGHT TO DISPLAY BLUE EAGLE STOP YOU MAY OBTAIN (PRA) BLUE EAGLE FROM (POSTMASTER (CODE) (_____ CODE AUTHORITY ADDRESS) UPON FILING WITH (HIM) (IT) CERTIFICATE OF COMPLIANCE WITH (PRA) (CODE)

_____
NRA REGIONAL DIRECTOR
REGION _____

FORM H

TELEGRAM FROM REGIONAL DIRECTOR TO POSTMASTER

INFORMING HIM OF RESTORATION OF BLUE EAGLE

RIGHT TO DISPLAY BLUE EAGLE RESTORED TO _____

_____ STOP PLEASE ISSUE BLUE EAGLE TO THIS

CONCERN UPON RECEIPT OF SIGNED CERTIFICATE OF COMPLIANCE WITH PRA

_____
NRA REGIONAL DIRECTOR
REGION _____

FORM I

TELEGRAM FROM REGIONAL DIRECTOR TO CODE AUTHORITY

INFORMING IT OF RESTORATION OF BLUE EAGLE

THE FOLLOWING TELEGRAM I HAS BEEN SENT TO _____

_____ QUOTE (Here copy Form G) UNQUOTE STOP

YOU MAY GIVE THIS MATTER SUCH PUBLICITY AS SEEMS ADVISABLE STOP

PLEASE ISSUE BLUE EAGLE UPON RECEIPT OF SIGNED CERTIFICATE OF COMPLIANCE

WITH YOUR CODE

_____

NRA REGIONAL DIRECTOR

REGION _____

FORM J

TELEGRAM FROM REGIONAL DIRECTOR TO STATE DIRECTOR

INFORMING HIM OF RESTORATION OF BLUE EAGLE

THE FOLLOWING TELEGRAM HAS BEEN SENT TO _____

_____QUOTE (Here Copy Form G) UNQUOTE STOP

YOU MAY GIVE THIS MATTER SUCH PUBLICITY AS SEEMS ADVISABLE

_____
NRA REGIONAL DIRECTOR
REGION _____

FORM K

TELEGRAM FROM REGIONAL DIRECTOR TO HEAD OFFICE OF RESPONDENT ADVISING IT OF HEARING SCHEDULED BEFORE REGIONAL COMPLIANCE COUNCIL

THE FOLLOWING TELEGRAM HAS BEEN SENT TODAY QUOTE (Copy Form A including name and address of addressee) UNQUOTE ANY ORDER REMOVING BLUE EAGLE FROM ABOVE ESTABLISHMENT MAY APPLY TO ALL YOUR ESTABLISHMENTS AND BRANCHES

_____
NRA REGIONAL DIRECTOR
REGION _____

FORM L

TELEGRAM FROM REGIONAL DIRECTOR TO HEAD OFFICE OF RESPONDENT ADVISING IT OF FINDING OF VIOLATION

THE FOLLOWING TELEGRAM HAS BEEN SENT TODAY QUOTE (Copy Form B including name and address of addressee) UNQUOTE ANY ORDER REMOVING BLUE EAGLE FROM ABOVE ESTABLISHMENT MAY APPLY TO ALL YOUR ESTABLISHMENTS AND BRANCHES

_____
NRA REGIONAL DIRECTOR
REGION _____

FORM M

TELEGRAM FROM REGIONAL DIRECTOR TO HEAD OFFICE OF RESPONDENT NOTIFYING IT OF BLUE EAGLE REMOVAL

* ON_____ I TELEGRAPHED YOU THAT AFTER CONSIDERING RECOMMENDATION OF REGIONAL COMPLIANCE COUNCIL FOLLOWING HEARING I FOUND THAT (insert name and address of addressee of Form B) HAD VIOLATED SECTION _____ OF ARTICLE _____ OF _____ CODE STOP ON THAT FINDING YOU ARE HEREBY DEPRIVED OF THE RIGHT TO DISPLAY ANY BLUE EAGLE AND YOU WILL HEREAFTER REFRAIN FROM USING ANY BLUE EAGLE AT YOUR ESTABLISHMENT OR IN ANY BRANCHES OR IN ADVERTISING OR IN ANY OTHER MANNER STOP YOU ARE DIRECTED TO SURRENDER IMMEDIATELY ALL BLUE EAGLES IN YOUR POSSESSION TO THE RESPECTIVE POSTMASTERS SERVING YOUR ESTABLISHMENTS

_____
NRA REGIONAL DIRECTOR

REGION _____

* IF FORM L NOT SENT, SUBSTITUTE FOLLOWING:

ON _____ I TELEGRAPHED (NAME AND ADDRESS OF ADDRESSEE OF FORM B) THAT I FOUND THAT IT HAD VIOLATED SECTION _____ OF ARTICLE _____ OF _____ CODE STOP ON THAT FINDING ETC.

NATIONAL RECOVERY ADMINISTRATION

December 10, 1934, as
Modified February 13, 1935.

MEMORANDUM

TO: NRA Regional Directors

FROM: L. J. Martin, Chief, Compliance Division

SUBJECT: Regional Compliance Councils. Procedure to be Followed in Withdrawing and Restoring the Right to Display the Blue Eagle and to Obtain and Use NRA Labels.

REGIONAL COMPLIANCE COUNCILS

Each Regional Compliance Council will consist of three members to be appointed by the Chief of the Compliance Division. One member will be a representative of labor, one a representative of industry, and the third an impartial Chairman. If either the labor member or the industry member is unable to attend a hearing, an alternate designated by the Chief of the Compliance Division will sit in his stead with full power to act as a member of the Council. If the Chairman is unable to attend, the labor member and the industry member may sit alone with full power to act for the Council, and the Regional Director will direct one of the two to act as Chairman in the conduct of the hearing. If the Regional Director believes it advisable, he may appoint a temporary Chairman with full power to act as a member of the Council. Decisions of the Council are to be by majority vote. In case of disagreement when the Chairman is unable to attend and a temporary Chairman has not been appointed, the Council members will present the case to the Regional Director and he will decide the matter.

The function of the Regional Compliance Council is to hear cases of non-compliance and other matters referred to it by the Regional Director. The procedure to be followed in such hearings, the scope of the Council's power, and the form its decisions will take are outlined below.

PROCEDURE TO BE FOLLOWED IN WITHDRAWING AND RESTORING THE RIGHT TO DISPLAY THE BLUE EAGLE AND TO OBTAIN AND USE NRA LABELS

1. Procedure of Regional Council:

Cases of non-compliance in which withdrawal of the right to display the Blue Eagle may be advisable will be referred by you to your Regional Compliance Council for its recommendation, which will be made after a hearing held in accordance with the following procedure:

A. Notice to Respondent.

The respondent must, by telegraph or registered mail, be given reasonable notice of the hearing, with due regard for the time required by him for travel and preparation of the case. The notice should state:

(a) The person or body charging violation by the respondent (such person or body will be either a National or Local Code Authority, a State Director, or the Regional Director);

(b) The Code provisions alleged to have been violated and the basic elements of the charge;

(c) The date, place, and hour of hearing;

(d) That if the respondent is found guilty of violation, the Regional Director may withdraw his right to display the Blue Eagle and refer the case to the United States Attorney;

(e) That the respondent may appear or be represented at the hearing or file a written statement before the hearing; and

(f) That the respondent should state whether or not he will appear or be represented.

A form of such notice if sent by telegram is attached. (Form A). A copy of Annex A hereto, setting forth the rules of procedure of the Council, should be mailed with the letter containing the notice or the confirmation copy of the telegram. Notice of the hearing should be sent to the appropriate National Code Authority and the local Code Authority, if any, whether or not such bodies have previously participated in the case, and to the appropriate State Director if he has requested notice of the hearing.

B. Postponements.

Requests for postponements should be considered by the Regional Council and may be granted or denied in its discretion. The respondent should be given every reasonable opportunity to appear but undue delay or stalling tactics should not be permitted.

C. Procedure of Hearing.

The hearing by the Council is not a public hearing, but the Council may allow interested parties to attend. The hearing should be informal in the sense that it should not be modeled upon court proce-

dure nor resemble a trial or prosecution. However, it should be conducted in orderly fashion with strict regard to the following rules of procedure and any others adopted by the Council, and not along the lines of a conference or conversational meeting. The Chairman should announce the purpose of the hearing. He should also inform the respondent that no stenographic transcript of the proceedings will be made unless the respondent desires to have one and to pay half the expense, in which case arrangements for such a transcript will be made by the Council. He should then request the Assistant Counsel for Compliance (or the member of the staff assigned to that duty) to present the case. If the complainant is present and desires to present his complaint, he should then be given that opportunity. The respondent should then be requested to present his case. Any other persons or bodies who desire to be heard should be allowed to state their views if the Council feels that they have a sufficient interest in the case. The Assistant Counsel for Compliance and the complainant are to be given an opportunity to reply to the statements of the respondent. Care must be taken to avoid the attitude of a prosecutor in presenting the charges against the respondent. The charges should be presented in an impartial manner with the object of informing the Council and the respondent of their nature. A similar attitude should be maintained in questioning the respondent or in replying to his statements. The Council should admit all evidence which it deems proper. Witnesses may be presented by either side and may be cross-examined, the extent of the cross-examination to be subject to the discretion of the Council. The respondent should be given full opportunity to present any proper evidence he may care to offer. The names of the complaining employees or other complainants should not be directly or indirectly disclosed to the respondent even though requested by him, unless their free consent is first obtained. Aside from that restriction, the respondent must be given full opportunity to examine the evidence presented against him and must be permitted to be present during the presentation by the Assistant Counsel for Compliance and during the submission of evidence. Minutes of the hearing in the form of a brief summary of what occurs in each case should be kept by the Secretary of the Council and their accuracy and adequacy checked by the Assistant Counsel for Compliance. During the course of the hearing the Chairman should endeavor to ascertain (unless the file already shows) whether the respondent operates only one or more than one establishment within the Region and the location of the respondent's head office. If the respondent does not attend, the Council may nevertheless hold a hearing and should follow the above procedure as fully as is possible in view of the respondent's absence.

D. Decision of Council.

If the Council concludes that, on the evidence before it, there has been no violation, its decision will consist of a finding of fact to that effect, and such finding is binding on the Regional Director. If the Council comes to any other conclusion, its decision will con-

sist of a recommendation to the Regional Director of findings of fact and of action to be taken by him. The findings of fact and the recommendation of action, if any, should be included in the minutes of the hearing.

The findings of fact should be based only on evidence heard by the Council. They should be sufficiently detailed to give a clear picture of the Council's view of the facts, and should cover such points as: the name, address, and form of business of the respondent (i.e., whether an individual, corporation, etc.), the provision alleged to have been violated, cited by Article and Section, the nature of the alleged violation, and the finding on each charge. In case of a finding of violation, the number and location of the respondent's establishments and the location of his head office should also be stated, if such information is available. In making its recommendation of action to be taken, the Council should consider such questions as whether an adjustment should be accepted and on what terms, whether the right to display the Blue Eagle should be withdrawn, whether the case should be referred to a United States Attorney, whether a further investigation is necessary and if so by what agency, and whether publicity should be given to whatever action is taken. The Council may, in its discretion, inform the respondent of the recommendation it will make to the Regional Director. The Council may also offer the respondent an opportunity to adjust the case before it makes a recommendation to the Regional Director. The Council has authority to accept an adjustment of the case in the course of the hearing, in which event no recommendation to the Regional Director need be made.

If the Council finds that on the evidence before it there has been no violation, its findings are final and no recommendation will be made to the Regional Director. The complainant should be advised by letter of such findings.

2. Removal of Blue Eagle.

Except in the situation mentioned in the immediately preceeding paragraph, the Council will make a recommendation to you of findings of fact and of action to be taken by you. Such a recommendation is to be carefully considered by you. However, it is not binding upon you and you may make such other findings and take such other action as you believe are warranted by the evidence heard by the Council and by other circumstances. If the action finally determined by you is withdrawal of the right to display the Blue Eagle, you will telegraph the respondent (in accordance with Form B) informing him that after consideration of the recommendation of the Regional Compliance Council you have found he has

violated stated provisions of the Code and that on such finding his right to display the Blue Eagle will be withdrawn five days from date. No publicity should be given this telegram. At the end of the five-day period, if no factors have arisen which make you think that withdrawal of the right to display the Blue Eagle would be undesirable, you are to telegraph the respondent (in accordance with Form C) withdrawing his right to display the Blue Eagle. Your decision removing the Blue Eagle is final. If the case arose in a state other than that in which your Regional Office is located, you should also telegraph the State Director of that State advising him of your action in removing the Blue Eagle (Form D). You may yourself give publicity to such action but may find it desirable to delay such publicity for twelve hours following your telegram to the State Director in order to give priority to local publicity. You should write the appropriate postmaster (in accordance with Form E) advising him of the disposition he should make of any Blue Eagles surrendered to him and requesting a report on whether such surrender was made. You should telegraph the appropriate Code Authority (in accordance with Form F) advising of your action. If the Council desires and you approve, you may in writing advise the respondent of a finding of violation and inform him that unless adjustment on stated terms is made within a stated period, his right to display the Blue Eagle will be withdrawn without further notice at the end of the stated period. If the stated period is equal to or greater than five days, the letter may take the place of Form B, so that the Blue Eagle may at once be removed upon failure of the respondent to adjust within the stated period and an additional five days' notice need not be given. A letter signed by the Council with reference to an adjustment to be made on stated terms within a stated period does not take the place of Form B, and the five days notice must be given prior to removal of the Blue Eagle.

If the respondent asks for a re-hearing on the ground of additional evidence or for any other reason, you may grant or deny such a re-hearing in your discretion.

3. Restoration of Blue Eagle.

All petitions for restoration of the right to display the Blue Eagle should be filed with the appropriate Regional Director. Such petitions filed with you are to be referred by you to the Regional Council and to the appropriate Code Authority for their recommendations. If, after considering such recommendations, you decide that the right to display the Blue Eagle should be restored, you may restore it by notice in accordance with Form G. The appropriate postmaster (whether the PRA or the Code Eagle is involved), Code Authority and State Director should be advised by telegram of your action (Forms H, I, and J). If, after considering the Regional Council's recommendation, you decide not to restore the right to display the Blue Eagle, you are so to advise the respondent, and your decision is final. If the case is one in which the Blue Eagle was

removed by order from Washington and you are in doubt as to whether it should be restored, you are to refer the matter to Washington.

4. Special Procedure Where Respondent Has More Than One Establishment.

The foregoing procedure for removal and restoration of the Blue Eagle applies only to cases in which the respondent operates only one establishment. It must be modified as hereinafter set forth when the respondent operates more than one establishment. In such a case, you will proceed as above with the following changes:

(a) At the time of sending your telegram (Form A) notifying the respondent of a hearing, you will also send a telegram to the respondent's head office (Form K) advising it of the hearing and stating that any resulting order removing the respondent's Blue Eagle may apply to all his establishments and that subsequent communications in the matter will be sent only to the respondent establishment. If the fact that respondent operates more than one establishment is not discovered until the hearing and you find a violation, then, at the time of sending your telegram advising respondent of your finding (Form F), you will also send a telegram to the respondent's head office notifying it of the finding and that any resulting order removing the respondent's Blue Eagle may apply to all the respondent's establishments (Form L).

(b) If the respondent's head office is in your Region, then at the time of sending your telegram removing the respondent's Blue Eagle (Form C), you will also send a telegram to the respondent's head office (Form I) depriving the respondent of his right to display the Blue Eagle at any of his establishments. A similar procedure will be followed in case of restoration of the Blue Eagle.

(c) If the respondent's head office is not in your Region, then at the time of sending your telegram (Form C) removing the respondent's blue Eagle, you will also telegraph Washington stating:

(i) the respondent's name;

(ii) the address of his head office;

(iii) the address of the establishment where the violation occurred;

(iv) the Code provision violated;

(v) the nature of the violation;

9839 (vi) the approximate number of establishments inside and outside your Region;

(vii) that you have deprived the respondent of his right to display the Blue Eagle at the establishment at which the violation occurred;

(viii) your recommendation as to whether your order should be extended to all the respondent's establishments.

The Compliance and Enforcement Director, or the Chief of the Compliance Division on his behalf, may then, without a hearing, supplement your order, which applies to the establishment where the violation occurred, by a further order removing the Blue Eagle from all the respondent's establishments. A similar procedure will be followed in case of restoration of the Blue Eagle.

5. Cases in Certain Service Trades and the Restaurant Industry.

Reference to the Regional Compliance Council is not necessary (though permissible) if the case is one in which a State Director has heretofore been authorized to remove the Blue Eagle - i.e., cases involving certain service codes and the Restaurant Code. If there has been no hearing by the Regional Council, any telegrams sent by you in such cases should be modified accordingly.

6. Violation of Executive and Administrative Orders and of the PRA.

Removal or restoration of the Blue Eagle in connection with violation of Executive and Administrative Orders or of the PRA by any person subject to its provisions, is to be in accordance with procedure prescribed above.

7. Cases Arising Under Codes Containing Mandatory Label Provisions.

In cases of violation arising under codes containing mandatory label provisions, the respondent may be deprived by you of his right to obtain labels from the Code Authority and of his right to use labels previously obtained and still on hand. Generally, withdrawal of the right to obtain labels is effective in securing compliance and it is unnecessary also to withdraw the right to use labels which the respondent has on hand. Ordinarily, therefore, only the right to obtain additional labels should be withdrawn. In exceptional cases, as where the respondent has such a quantity of labels on hand that an order denying him the right to obtain additional labels would be of little effect, you should also deprive a respondent of his right to use labels on hand. In most of the cases of violation arising under these codes, the Code Authority, after a hearing by it and acting under an authorization from an NRA Label Review Officer, will have temporarily suspended the issue of labels pending a hearing by the Regional Council and action on the part of the Regional Director. Where such a temporary suspension has occurred it is important that the Council and Regional Director act promptly on the case in view of the hardship which the respondent might suffer on

account of delay in obtaining a hearing. If you determine that the right to obtain labels should be withdrawn, your order in such cases will make final the withdrawal temporarily affected by the Code Authority. Your decision depriving the respondent of the right to obtain labels or to use labels on hand is final.

If a concern subject to two or more label codes is found guilty of violation of only one code, it may be deprived of the right to obtain labels for goods manufactured under that code. But it may not because of that violation be deprived of the right to obtain labels for goods manufactured under the other codes. Nor may a concern because of a violation of a non-label code be deprived of the right to obtain labels for goods manufactured under a label code. The rules in this paragraph apply with respect to labels only; when the Blue Eagle is removed, it is removed from all of the respondent's establishments, even though they are operating under several codes and only one code has been violated.

Withdrawal or restoration of the right to obtain labels or to use labels on hand is to be in accordance with the procedure described above for removal of the Blue Eagle, with the following additions:

(a) Notice

The notice should state, in addition to the usual information, that if the respondent is found guilty of violation the Regional Director may withdraw his right to obtain or use NRA labels. Form A should thus be modified, as indicated thereon, in such cases.

(b) Decision of Council

The Council should, in case of a finding of violation, recommend whether the right to obtain and the right to use labels should be withdrawn.

(c) Telegraphic notice of finding of violation

If you determine to withdraw the right to obtain labels, the telegram notifying the respondent of the finding of violation will also state that the right to obtain NRA labels will be withdrawn. In the exceptional case in which you determine to withdraw in addition the right to use NRA labels which the respondent has on hand, the telegram should so state. Form B should thus be modified, as indicated thereon, in such cases.

(d) Telegram withdrawing right to display Blue Eagle

This telegram should be modified in appropriate cases by specifically withdrawing the right to obtain labels and, where such action is determined upon, the right to use NRA labels which the respondent has on hand. Form C should thus be modified, as indicated thereon, in such cases.

(e) Order to Code Authority to cease issue of labels.

If you determine to withdraw the right to obtain labels, you should in your telegram to the Code Authority advising it of your action order the Code Authority to cease the issuance of NRA labels to the respondent. Form F should thus be modified, as indicated thereon, in such cases.

(f) Restoration of right to obtain or use labels

If the respondent shall have satisfied you that he is in full compliance with the code and the N.I.R.A. and any rule and regulation duly adopted pursuant to such Act (including having made restitution for past violations in accordance with NRA policy), or if you believe such action is in the interest of compliance with the code, you will order the Code Authori to resume the issuance of labels to the respondent and you will restore to the respondent the right to use labels which the respondent has on hand if he has been deprived of such right.

(1) Notice to Respondent

If you determine to restore the right to obtain labels, your telegram to the respondent advising him of the restoration of the Blue Eagle will also state that the right to obtain NRA labels is restored. Where the right to use NRA labels is also restored, the telegram will so state. Form G should thus be modified, as indicated thereon, in such cases.

(2) Order to Code Authority to resume the issuance of labels

If you determine to restore the right to obtain labels, you should order the Code Authority to resume the issuance of NRA labels. Form I should thus be modified, as indicated thereon, in such cases.

(g) Special procedure where respondent has more than one establis ment

(1) If the respondent's head office is in your Region and you determine to withdraw or restore the right to obtain labels, you will order the Code Authority to cease or resume the issuance of labels to the respondent for all of his establishments.

(2) If the respondent's head office is not in your Region and you determine to withdraw or restore the right to obtain labels, you will include in your telegram to Washington:

(ix) your recommendation that the right to obtain labels, and, if you so determine, the right to use labels which the respondent has on hand, be withdrawn from or restored to the respondent for all of his establishments.

8. Relation to Industry Divisions and Industrial Appeals Board. Petitions for Relief.

If the respondent contends that he cannot make restitution and comply with the code or certain of its provisions (or any administrative rulings thereunder, such as interpretations or classifications) on the ground that they are unfair or discriminatory, tend toward monopoly, or work undue hardship upon him, the Council should proceed as follows:

(a) If it decides that the contention is made in good faith and is supported by enough facts to warrant its consideration by the proper authorities and that it would be unfair to remove the respondent's Blue Eagle until the respondent's contention has been considered by the proper authorities, the Council should advise him of his right to petition the NRA Division Administrator for relief and of his right to appeal from the decision of the Division Administrator to the Industrial Appeals Board; and the Council should suspend a recommendation in regard to the Blue Eagle and a reference to the Litigation Counsel pending a final decision of such petition, if it is filed within a time fixed by the Council.

(b) If it decides that the contention is not made in good faith or is not supported by enough facts or that it would not be unfair to remove the respondent's Blue Eagle if he fails to make restitution and comply pending decision on a petition for relief, the Council should advise the respondent of his right to petition for relief and inform him that unless he makes restitution and complies pending a decision on such petition it will recommend that his Blue Eagle be removed.

9. General.

The above merely prescribes the procedure that should be followed by you in regard to withdrawal or restoration of the right to display the Blue Eagle and to obtain or use NRA Labels. It does not establish an exclusive procedure or in any manner bind the Compliance and Enforcement Director or the Chief of the Compliance Division. The right to display the Blue Eagle and other NRA insignia and to obtain or use NRA labels may be withdrawn or restored in any case by the Compliance and Enforcement Director, or on his behalf by the Chief of the Compliance Division, even though the case may be before a Regional Council or Regional Director, whose jurisdiction will cease at the direction of the Compliance and Enforcement Director or the Chief of the Compliance Division.

9839

L. J. Martin
Chief, Compliance Division.

ANNEX A

NATIONAL RECOVERY ADMINISTRATION

Important Information to Persons Charged with Violation of an NRA Code, Agreement or Regulation

PROCEDURE BEFORE THE REGIONAL COMPLIANCE COUNCIL.

Read Carefully

Hearings before the Regional Compliance Council are informal. They are not modeled upon court procedure and do not resemble a trial or prosecution. However they are conducted in orderly fashion in accordance with the Council's rules of procedure. The hearing is not a public hearing, but the Council may allow interested parties to attend. No stenographic transcript of the hearing will be made unless you desire to have one and pay half of the expense, in which case you should notify the Secretary to the Council at least twenty four hours in advance of the hearing so that he may make proper arrangements.

The Chairman will announce the purposes of the hearing. The charges against you will then be presented by the Legal Adviser to the Regional Director or by some other member of the Regional Director's staff. The person who filed the complaint against you and any other persons with a proper interest in the case will be allowed to present facts or make statements. You will then be requested to present your side of the case, which you may do yourself or through a lawyer. The Legal Adviser (or other member of the Regional Director's staff) and the complainant will then be given an opportunity to reply to your statements.

The Council will admit all evidence which it considers proper. Witnesses may be presented by either side and may be cross examined, the extent of the examination to be subject to the discretion of the Council.

It is the fixed policy of the National Recovery Administration not to disclose the names of complaining employees or other complainants without their consent, as experience has shown that disclosure of their names may mean serious injury to them. For this reason, the names of complainants will not be disclosed to you, directly or indirectly, unless the complainants consent.

If the respondent does not attend, the Council may nevertheless hold a hearing and will follow the above procedure as fully as possible in view of the respondent's absence.

If the Council finds that on the evidence before it no violation is proven its findings are final. If the Council finds that a violation is proven its decision will consist of recommendations to the Regional Director as to findings of fact and of action to be taken by the Regional Director. If the Regional Director approves the finding of violation he may remove the Blue Eagle and refer the case to a United States Attorney. If the Regional Director decides upon removal of the Blue Eagle, he will notify you of the finding of violation, but he will not remove your Blue Eagle at that time. He will wait five days, during which period no publicity will be given to the finding of violation, and will then notify you that the Blue Eagle has been removed.

FORM A

TELEGRAM TO RESPONDENT NOTIFYING HIM OF HEARING TO BE HELD BY THE REGIONAL COMPLIANCE COUNCIL

(National Code Authority or Local Code Authority or State NRA Compliance Director or NRA Regional Director) HAS CHARGED YOU HAVE VIOLATED SECTION _____ ARTICLE _____ CODE BY (state alleged violation briefly but with sufficient particularity to inform the respondent of the charges) STOP REGIONAL COMPLIANCE COUNCIL WILL HOLD HEARING ON THIS CHARGE ON (date, place, and hour) STOP YOU MAY APPEAR OR BE REPRESENTED AT HEARING OR FILE WRITTEN STATEMENT BEFORE HEARING STOP IF COUNCIL FINDS VIOLATION REGIONAL DIRECTOR MAY WITHDRAW YOUR RIGHT TO DISPLAY ANY BLUE EAGLE AND MAY REFER CASE TO UNITED STATES ATTORNEY STOP PLEASE ADVISE WHETHER OR NOT YOU WILL APPEAR OR BE REPRESENTED AT HEARING

SECRETARY
NRA REGIONAL COMPLIANCE COUNCIL

1. If a case has already been referred to a United States Attorney the words "and may refer case to United States Attorney" should be omitted.

2. In cases arising under codes containing mandatory label provisions, the following should be inserted after the words "Blue Eagle": "and to obtain NRA Labels or to use NRA labels on hand".

FORM E

TELEGRAM FROM REGIONAL DIRECTOR TO RESPONDENT NOTIFYING HIM THAT VIOLATION HAS BEEN FOUND

(To be addressed to the Establishment where Violation Occurred)

AFTER CONSIDERING RECOMMENDATION OF REGIONAL COMPLIANCE COUNCIL FOLLOWING HEARING ON YOUR CASE I FIND YOU HAVE VIOLATED SECTION _____ ARTICLE _____ CODE STOP ON THIS FINDING YOU WILL BE DEPRIVED FIVE DAYS FROM DATE OF RIGHT TO DISPLAY BLUE EAGLE STOP UNTIL THEN WE SHALL NOT GIVE PUBLICITY TO THIS FINDING

_____
NRA REGIONAL DIRECTOR

If Regional Director determines to withdraw the right to obtain labels, the following should be inserted after the words "Blue Eagle": "and to obtain NRA labels". If Regional Director determines also to withdraw the right to use labels which the respondent has on hand the insertion will read: "and to obtain NRA labels and to use NRA labels on hand"

FORM C

TELEGRAM FROM REGIONAL DIRECTOR TO RESPONDENT

REMOVING BLUE EAGLE

(To be addressed to the Establishment where Violation Occurred)

AFTER CONSIDERING RECOMMENDATION OF REGIONAL COMPLIANCE COUNCIL I FOUND YOU HAD VIOLATED (PARAGRAPH _____ (SECTION _____ PRA ARTICLE _____ _____ CODE) STOP ON THAT FINDING YOU ARE HEREBY DEPRIVED OF THE RIGHT TO DISPLAY ANY BLUE EAGLE AND YOU WILL HEREAFTER REFRAIN FROM USING ANY BLUE EAGLE AT YOUR ESTABLISHMENT OR IN ADVERTISING OR IN ANY OTHER MANNER STOP YOU ARE DIRECTED TO SURRENDER IMMEDIATELY TO YOUR POSTMASTER ALL BLUE EAGLES IN YOUR POSSESSION

_____
NRA REGIONAL DIRECTOR

If Regional Director determines to withdraw the right to obtain labels, the following should be inserted after the words "Blue Eagle": "and to obtain NRA labels". If Regional Director determines also to withdraw the right to use labels which the respondent has on hand, the insertion will read: "and to obtain NRA labels and to use NRA labels on hand".

FORM D

TELEGRAM FROM REGIONAL DIRECTOR TO STATE DIRECTOR

ADVISING HIM OF BLUE EAGLE REMOVAL

EAGLE REMOVAL _____(Name and address of
(PARAGRAPH PRA)
respondent) (SECTION _____ARTICLE_____ _____

CODE)

_____
NRA REGIONAL DIRECTOR

1. The Regional Director may add to this telegram any details of the case which he thinks may be of interest locally.

2. A State Director receiving such a telegram should interpret it as follows:

"The following telegram has been sent to _____ _____(name and address of respondent) Quote After considering recommendation of Regional Compliance Council I found you had violated (Paragraph (PRA) (Section _____ Article _____ Code) Stop On that finding you are hereby deprived of the right to display any Blue Eagle and you will hereafter refrain from using any Blue Eagle at your establishment or in advertising or in any other manner Stop You are directed to surrender immediately to your postmaster all Blue Eagles in your possession Unquote You may give this matter such publicity as seems advisable"

3. If the Regional Director has withdrawn the right to obtain labels, the telegram will commence as follows: "Eagle Labels Removal" and the State Director will interpret the word "labels" as indicating that the telegram sent to the respondent contains the phrase "and to obtain NRA labels" after the words "Blue Eagle". If the right to use labels which the respondent has on hand has also been withdrawn, the telegram will commence as follows: "Eagle Labels Use Removal" and the State Director will interpret the words "labels use" as indicating that the telegram sent to the respondent contains the phrase "and to obtain NRA labels and to use NRA labels on hand" after the words "Blue Eagle".

FORM E

LETTER TO POSTMASTER IN CITY OF RESPONDENT

ADVISING HIM OF BLUE EAGLE REMOVAL

Postmaster,

_____

Dear Sir:

The (enclosed / following) telegram has been sent today to _____. (Enclose / Quote Form C)

Kindly advise us within ten days what action is taken by this concern toward complying with this telegram, stating in particular whether the Blue Eagle is being displayed at the establishment. All Code Blue Eagles surrendered to you should be sent by you to me. All PRA Blue Eagles surrendered should be kept by you.

Yours very truly,

_____

NRA REGIONAL DIRECTOR

REGION _____

F O R M

TELEGRAM FROM REGIONAL DIRECTOR TO CODE AUTHORITY

ADVISING OF BLUE EAGLE REMOVAL

EAGLE REMOVAL _____(Name and address of respondent) SECTION _____ARTICLE _____

_____
NRA REGIONAL DIRECTOR

1. The Regional Director may add to this telegram any details of the case which he thinks may be of interest to the Code Authority.

2. A Code Authority receiving such a telegram should interpret it as follows:

"The following telegram has been sent to _____ (Name and address of respondent) Quote After considering recommendation of Regional Compliance Council I found you had violated Section _____ Article _____ _____ Code Stop In that finding you are hereby deprived of the right to display any Blue Eagle and you will hereafter refrain from using any Blue Eagle at your establishment or in advertising or in any other manner Stop you are directed to surrender immediately to your postmaster all Blue Eagles in your possessi Unquote You may give this matter such publicity as seems advisable".

3. If the Regional Director has withdrawn the right to obtain NRA labels the following should be added to the telegram: "Cease issuance of NRA labels to this concern". If the Regional Director has also withdrawn the right to use labels which the respondent has on hand, the insertion will read: "Cease issuance of NRA labels to this concern Stop Right to use label on hand also withdrawn".

FORM 6

TELEGRAM FROM REGIONAL DIRECTOR TO RESPONDENT RESTORING

RIGHT TO DISPLAY BLUE EAGLE

HAVING RECEIVED YOUR ASSURANCE YOU ARE COMPLYING AND WILL
CONTINUE TO COMPLY WITH (_____ (NRA CODE) AND THAT YOU HAVE

(State action taken by respondent, as making full restitution of back wages, etc.) I HEREBY RESTORE YOUR RIGHT TO DISPLAY BLUE EAGLE STOP
YOU MAY OBTAIN (NRA CODE) BLUE EAGLE FROM (_____ (YOUR POSTMASTER) CODE AUTHORITY-... (HIM) (NRA ADDRESS) UPON FILING WITH (IT) CERTIFICATE OF COMPLIANCE WITH (NRA CODE)

_____
NRA REGIONAL DIRECTOR

If Regional Director determines to restore the right to obtain labels, the following should be inserted after the words "Blue Eagle": "and to obtain NRA labels". If Regional Director determines also to restore the right to use labels which the respondent has on hand, the insertion will read: "and to obtain NRA labels and to use NRA labels on hand".

FORM H

TELEGRAM FROM REGIONAL DIRECTOR TO POSTMASTER

INFORMING HIM OF RESTORATION OF BLUE EAGLE

RIGHT TO DISPLAY BLUE EAGLE RESTORED TO _____

_____ STOP IF CONCERN REQUESTS PLEASE ISSUE

BLUE EAGLE UPON RECEIPT OF SIGNED CERTIFICATE OF COMPLIANCE

WITH PRA

_____

NRA REGIONAL DIRECTOR

REGION _____

FORM I

TELEGRAM FROM REGIONAL DIRECTOR TO CODE AUTHORITY

INFORMING IT OF RESTORATION OF BLUE EAGLE

EAGLE RESTORATION _____(Name and address of respondent) (State action taken by respondent, as making full restitution of back wages, etc., quoting exactly from Form G) STOP ISSUE BLUE EAGLE UPON RECEIPT OF SIGNED CERTIFICATE OF COMPLIANCE WITH YOUR CODE

_____
REGIONAL DIRECTOR

1. The Regional Director may add to this telegram any details of the case which he thinks may be of interest to the Code Authority.

2. A Code Authority receiving such a telegram should interpret it as follows:

"The following telegram has been sent to _____ _____(name and address of respondent) Quote Having received your assurance you are complying and will continue to comply with _____ Code and that you have (action taken by respondent as indicated in telegram received) I hereby restore your right to display Blue Eagle Stop You may obtain Code Blue Eagle from _____Code Authority (address) upon filing with it certificate of compliance with code Unquote You may give this matter such publicity as seems advisable"

3. If the Regional Director has restored the right to obtain labels, the following should be inserted after the words "Blue Eagle": "and NRA Labels". If the right to use labels which the respondent has on hand has also been restored the following should be added at the end of the telegram: "Right to use labels on hand also restored".

FORM J

TELEGRAM FROM REGIONAL DIRECTOR TO STATE DIRECTOR

INFORMING HIM OF RESTORATION OF BLUE EAGLE

EAGLE RESTORATION (PRA CODE) _____ (Name and address of respondent) (_____ CODE) (State action taken by respondent, as making full rectitution of back wages, etc., quoting exactly from Form G)

_____
NRA REGIONAL DIRECTOR

1. The Regional Director may add to this telegram any details of the case which he thinks may be of interest locally.

2. A State Director receiving such a telegram should interpret it as follows:

"The following telegram has been sent _____ (Name and address of respondent) Quote Having received your assurance you are complying and will continue to comply with (PRA CODE) _____ and that you have (action taken by respondent as indicated in telegram received) I hereby restore your right to display Blue Eagle Stop You may obtain (PRA Code) Blue Eagle from (Your Postmaster _____ Code Authority - Address) upon filing with (him it) certificate of compliance with (PRA Code) Unquote You may give this matter such publicity as seems advisable"

3. If the Regional Director has restored the right to obtain labels, the telegram will commence as follows: "Eagle Labels Restoration" and the State Director will interpret the words "labels" as indicating that the telegram sent to the respondent contains the phrase "and to obtain NRA labels" after the words "Blue Eagle". If the right to use labels which the respondent has on hand has also been restored the telegram will commence as follows: "Eagle Labels Use Restoration" and the State Director will interpret the words "Labels Use" as indicating that the telegram sent to the respondent contains the phrase "and to obtain NRA labels and to use NRA labels on hand" after the words "Blue Eagle".

FORM K

TELEGRAM FROM REGIONAL DIRECTOR TO HEAD OFFICE OF RESPONDENT ADVISING IT OF HEARING SCHEDULED BEFORE REGIONAL COMPLIANCE COUNCIL

FOLLOWING TELEGRAM SENT TODAY QUOTE (Copy Form A including name and address of addressee) UNQUOTE ANY ORDER REVOVING BLUE EAGLE FROM ABOVE ESTABLISHMENT MAY APPLY TO ALL YOUR ESTABLISHMENTS AND BRANCHES STOP SUBSEQUENT COMMUNICATIONS IN THIS MATTER WILL BE SENT ONLY TO (Name and address of addressee of Form A)

_____
NRA REGIONAL DIRECTOR

REGION _____

FORM I

TELEGRAM FROM REGIONAL DIRECTOR TO HEAD OFFICE OF RESPONDENT ADVISING IT OF FINDING OF VIOLATION

FOLLOWING TELEGRAM SENT TODAY QUOTE (Copy Form B including name and address of addressee) UNQUOTE ANY ORDER REVOKING BLUE EAGLE FROM ABOVE ESTABLISHMENT MAY APPLY TO ALL YOUR ESTABLISHMENTS AND BRANCHES

NRA REGIONAL DIRECTOR

REGION _____

FORM M

TELEGRAM FROM REGIONAL DIRECTOR TO HEAD OFFICE OF RESPONDENT NOTIFYING IT OF BLUE EAGLE REMOVAL

AFTER CONSIDERING RECOMMENDATION OF REGIONAL COMPLIANCE COUNCIL I FOUND THAT (insert name and address of addressee of Form B) HAD VIOLATED SECTION _____ ARTICLE _____ _____ CODE STOP ON THAT FINDING YOU ARE HEREBY DEPRIVED OF THE RIGHT TO DISPLAY ANY BLUE EAGLE AND YOU WILL HEREAFTER REFRAIN FROM USING ANY BLUE EAGLE AT YOUR ESTABLISHMENT OR IN ANY BRANCHES OR IN ADVERTISING OR IN ANY OTHER MANNER STOP YOU ARE DIRECTED TO SURRENDER IMMEDIATELY ALL BLUE EAGLES IN YOUR POSSESSION TO THE RESPECTIVE POSTMASTERS SERVING YOUR ESTABLISHMENTS

_____
NRA REGIONAL DIRECTOR

REGION _____

Remarks on Form C relative to cases where right to obtain or use labels has been withdrawn are also applicable to Form M.

APPENDIX 4

45 Broadway
New York City

December 8, 1934.

TO: Mr. William H. Davis
Special Adviser on Compliance and Enforcement

FROM: Mrs. Anna M. Rosenberg
State NRA Compliance Director

SUBJECT: TROUBLESOME CODE PROVISIONS - PART I

One of the major problems of the NRA is that of compliance and enforcement. In order that compliance may be obtained, the reasons for non-compliance must be understood. They are:

1. Unfair or unenforceable code provisions.
2. Desire of industry to evade compliance.
   a. Because of desire to obtain greater profits or to actually stay in business.
   b. Natural and deliberate dishonesty.

It is therefore necessary to make a study of and analyze codes in order to ascertain which problems are inequitable and non-enforceable. After such a study is completed provisions which are definitely found to be inequitable and non-enforceable must be eliminated from codes. This would leave codes with a body of provisions that are both equitable and enforceable. At that time it would be necessary to establish machinery for speedy and efficient enforcement of the remaining code provisions. By eliminating unfair and unenforceable code provisions, the government would give industry the feeling that it is definitely trying to cooperate with it and understand its problems. Industry, in turn, would feel that the government is not trying to be arbitrary and would fully cooperate in the problem of enforcement. There is a substantial denial of justice to those members of the industry who are attempting to comply honestly if speedy enforcement is not provided for. Speedy enforcement cannot be provided for when provisions are definitely inequitable and non-enforceable.

The report is divided into three parts. The first part is an analysis of the Troublesome Code Provisions received from industries. Part II lists the different Troublesome Code Provisions under their various headings and gives the industries under each heading. Part III concerns itself with those industries having troublesome code provisions and cites the actual section of the code with which difficulty is encountered.

Out of 68 replies received from Code Authorities only 25 contained pertinent information which would help in an analysis of Troublesome Code Provisions. A further analysis of Troublesome Code Provisions will be continued and a supplementary report will be made at a later date.

9 or 35% of the pertinent replies stated that their difficulty was one which had to do with the "open price plan". The industries complaining of such difficulties are:

Compressed Air Industry	Article XIII
Heat Exchange Industry	"
Pump Manufacturing Industry	"
Floor & Wall Clay Tile Mfg. Ind.	" IX
Wholesale Confectioners' Indus.	" VII - Sec. 1.
Rubber Mfg. Industry	Chapter III - Art. IV - Sec.1.
Household Goods Stor. & Mov. Trade	Art. VII -Sec.1 & 2
Paper Bag Mfg. Industry	Article VII - Sec. 8
Hat Manufacturing Industry	Article V - Sec. 6

35% is a significant percentage and would seem to indicate that the difficulties experienced by these industries are not due to difficulties within the particular industries, but rather due to the faults and difficulties inherent in "open price plans" and "price-fixing." Before a discussion is undertaken of the difficulties of "open price planning," other industries having problems related to "open price planning" and "price-fixing" will also be enumerated.

2 or 8% of the (Electric Storage and Wet Primary Battery Industry - Schedule I; Section 5A, and the Wholesale Dry Goods Trade - Article IV - Section 2) of those industries replying, claim that their troublesome provisions relate to Consignment Selling.

3 or 12% of the (Electric Storage and Wet Primary Battery Industry - Schedule I - Section 6, Rubber Manufacturing Industry - Article IV - Chapter III - Section 2, Paper Bag Manufacturing Industry - Article IX - Section H & J) of the industries complain of difficulty of enforcement of "Selling Below Cost" provisions.

1 or 4% of the (Wholesale Dry Goods Trade - Article IV - Section 1) of those replying have the problem of "Free Deliveries."

2 or 8% of the (Electric Storage & Wet Primary Battery Industry - Schedule 1 - Section 1, and Concrete Reinforcing Steel Industry - Section 1 (U) Article VIII) have the problem of "Second Hand or Rebuilt Articles."

Following are enumerated several of the difficulties inherent in the "open price planning":

1. Most "open price planning" permit of a waiting period. This period permits intimidation and coercion of competitors.

2. It can be used as a lever to put the little man out of business.

3. Opposed to the psychology of the buyer who still endeavors to "chisel."

4. It is practically impossible to use in an industry having many competitors, since it would require a very large policing force which would be very expensive, and might even then be inadequate.

5. Must have goods of certain and definite quality and standards.

In a questionnaire sent out to one thousand industries, 80% replied that they sold below cost from time to time in order to meet prices of their competitors, and 20% replied they sold below cost so as to keep their plans working as near full capacity as possible. Since this is the actual experience of industry, competitors feel that they cannot rely on members of their industry to cease this practice and therefore evade the provisions of "open price listing" by rebates, "selling on consignment", "free deliveries", and other evasions, known to industry.

Furthermore, "open price planning" does not do away with destructive and cut-throat competition since the waiting period incorporated in most "open price plans" encourages competitors to find a method whereby they can undersell their competitors. Industry had hoped that their "open price plan" prices would tend to be raised, this has not been the case, since it has tendered toward minimum prices in the same way that it has in the labor provisions of codes.

Where price control has been sought through the limited operation of productive machinery, a fallacious economic principle has been introduced since there is not an overabundance of production in this country. Such control is based on the creation of artificial scarcity and the problem at the present time is one of supplying people with all their needs rather than to create an untrue scarcity.

Other Troublesome Code Provisions listed by industry in their letters are:

"The problem of overlapping codes."

Overlapping codes present a real difficulty in proper code administration. An example of a group of industries in which overlapping codes prevail and which is causing real difficulty in proper compliance and enforcement is the Undergarment and Negligee Industry. The Undergarment and Negligee Industry Code has provisions which cause a definite overlapping with the Underwear Allied Products, the Cotton Garment and the Infants' and Children's Wear Code. Very often these products are manufactured under one roof and the manufacturer is bound by conflicting code provisions since the hour and wage rates are different for the above enumerated codes. If possible, code requirements in such cases should be made uniform or a provision should be worked out whereby a manufacturer whose business is primarily in one industry should be bound by the code of that one industry only. However, a study of the industry should be made in order to see that no injustices are being done.

The Artificial Flower and Feather Industry is confronted with the problem of homework. The problem of homework is a serious one both from an economic and social point of view. It is a problem not only in this industry but all industries where homework is permitted and sanctioned. Where homework is permitted in an industry, it is difficult to check the number of hours of employment, the wages paid or the sanitary conditions under which the work is done. If those manufacturers who have their work done under a homework system do not have to pay similar wages to those who have their work done in factories, they will be in a position to

undersell their competitors. The entire problem of homework should be further studied in order to ascertain if homework should be permitted, and if it is permitted whether it can be done on a basis similar to those where work is done in the factory.

The Hat Manufacturing Industry complains of non-use of labels. In an industry where labels are supposed to be used the particular reason for such non-compliance in this industry should be ascertained since in most label industries this difficulty does not obtain, for without labels they have difficulty in selling their merchandise. The Hat Manufacturing Industry also complains of difficulty of employees being worked below the 35¢ hour minimum and over the 40 hour weekly hour rate which provision again it is necessary to investigate the particular difficulties in this industry before the solution can be worked out.

3 or 12-1/2% of the (Paper Bag Manufacturing Industry - Article VIII - Section 1 and 2, Processed or Refined Fish Oil Industry - Article VII - Title B, Hat Manufacturing Industry - Article V) of the industries complain of the difficulty of getting statistical information. They should be given the power to subpoena and obtain whatever books and records are necessary. However, they should of course be given the assurance of knowing that their competitors will not have access to their private records. If necessary the NRA should stop in and see that the Code Authorities are given such records where they are necessary.

Another medhod of controlling industry insofar as price is concerned, has been the "allotment of production" method used in the Glass Container Code. This is a very dangerous provision unless there are adequate safeguards to prevent extortionate prices.

Other problems which do not properly come within the category of Troublesome Code Provisions but are troublesome to the Code Authorities are also mentioned in this report.

Used Textile Bag Industry complain of the difficulty of getting members of the industry to complain of other competitors who are violating. This could be obviated by not only having a system whereby voluntary complaints are used to detect violations, but to have several paid investigators attached to the Code Authorities' office in order to investigate possible violations.

The Upholstery & Decorative Fabrics Trade complain of the difficulty of sample books and seasonal lines.

The Elevator Manufacturing Company complains of the difficulty of getting smaller companies to support the Code Authority and the Concrete Reinforcing Steel Institute and the Processed or Refined Fish Oil Industry complain of the difficulty of non-members who refuse to comply. This is a very serious problem since even if a small percentage of non-members refuse to comply they can do vital damage to those members of the industry who are making a serious attempt to comply. If possible, penalty clauses should be written into their codes, although this would be only satisfactory in cases where they sign such reciprocal agreements. If it is found that non-members who refuse to comply are seriously impairing the

efficiency of the work of a code under a particular industry, a hearing of the industry should be held to determine what methods can be employed to obtain compliance. The first method is of course persuasion. If this does not work other methods should be found. If those who are complying are to continue to comply, those who are not complying must be made to comply quickly.

3 or 12% of the (National Commercial Vehicle Body Association, Yeast Industry and the Processed or Refined Fish Oil Industry) have not been able to function properly due to the fact that their respective budgets have not been approved. Without funds they are definitely hindered in their administration of the code and particularly in the problem of obtaining compliance and in their work on enforcement.

The Waste Paper Trade objects to the fact that their budget was not made retroactive to the date of the approval of the code, and, they claim a hardship has been visited on those members of the industry who bore the burden prior to the date of the approval of budget. Reasons for this, if possible, should be given them.

The Powder Puff Industry objects to the shift of the collection division to Washington and the Wrecking and Salvage Industry object to a system whereby the NRA office obtains copies of the complaints before the Code Authority gets the copy itself. A method whereby they receive copies of complaints at same time should be worked out.

The Wholesale Millinery Trade complains of a very real difficulty, namely, that retailers return merchandise without good cause although their own code prohibits such return. This is again a problem of the buyer who himself is not bound by the code and therefore is not prevented from taking unfair and undue advantage. This can and should be changed by either an executive order or a provision in all codes stating that buyers who knowingly induce a member of an industry who is subject to a code to violate such a code, is himself guilty of violation of the code. A provision similar to this would be helpful not only in this industry, but in many other industries where this problem arises.

Many more codes than those above mentioned have the problem of Troublesome Code Provisions which should be either eliminated in their entirety, modified or rewritten. Industries should be placed in allied categories and either individual hearings for each industry or hearings for related industries, or for industries having similar problems should be held so that all of the Troublesome Code Provisions may be found, studied, and recommendations and suggestions made which will lead to their rectification. If such hearings are held a threefold purpose will be served:

1. Actual rectification of the injustices found in the industry.

2. Quicker compliance of those provisions which are fair and enforceable.

3. Code Authorities will be given the feeling that the government through the NRA is definitely interested in the problems of industry and is trying to be as helpful as possible.

Industry and government must be taught to work in closer harmony and have a mutual respect for each other if the best is to be obtained from the NIRA. Industry, labor and the consumer must be given the feeling that the NRA is an impartial agency whose desire is to hear all sides of the question and make decisions that are most fair to the greatest number.

Since the returns received are inadequate they cannot be used as the basis for a proper survey. A survey can be undertaken either:

1. By means of a questionnaire sent to industry.
2. By private hearings of each industry.
3. By hearings on related industries.
4. By hearings on similar or related provisions of different codes.

Troublesome Code Provisions can be handled in three ways:

1. Taking one code at a time, studying it and making whatever adjustments are possible.

2. By studying certain types of provisions that are known to cause difficulty such as "open price plan", "overlapping codes", and attempting to work out solutions that would work in all industries.

3. A combination of both methods which is the really practical way since it combines the problem of "short range and long range" planning. Each industry must be helped to work out as complete a system of compliance as is possible in order for the codes to continue. It is also important that certain economic principles be studied with a view to seeing whether they are actually sound and should continue to be incorporated in the codes.

A Troublesome Code Division should be set up to which a Code Authority, a member of the industry, the union or an employee may have access when they have a grievance or complaint. The department could be helpful by:

1. Routing complainant to division having charge of such problems, if such divisions are already in existence.

2. Attempting to work out a solution in those cases where no department has been set up to take care of it by:

   a. Seeing if provisions is equitable.
   b. Seeing if it is enforceable.
   c. Seeing if it needs revision and aiding in drafting necessary changes.

3. An educational program whereby industry is shown the value and benefit to it of actual compliance under codes.

TROUBLESOME CODE PROVISIONS - PART II

Price Listing

Compressed Air Industry	Article XIII
Heat Exchange Industry	"
Pump Manufacturing Industry	"
Electric Storage & Wet Primary Bat. Industry	
Floor & Wall Clay Tile Mfg. Industry	" IX
Wholesalers Confect. Industry	" VII - Sec.1
Rubber Manufacturers Ass'n.	Chap.III-Art.IV-Sec.1
Household Goods Storage & Moving Trade	Article VII-Sec.1&2
Paper Bag Mfg. Industry	" VII-Sec.8
Hat Manufacturing Industry	" V - Sec.6

Consignments

Electric Storage & Wet Prim. Bat. Industry	Schedule I - Sec.5A
Wholesale Dry Goods Trade	Article IV - Sec.2

Selling Below Cost

Electric Storage & Wet Prim. Bat. Industry	Schedule I - Sec.6
Rubber Manufacturers Association	Article IV - Chap.III
Wholesale Millinery Trade	
Paper Bag Manufacturing Industry	Article IX - Sec.H&J

Problem of Free Deliveries

Wholesale Dry Goods Trade	Article IV - Sec.1

Second Hand or Rebuilt

Electric Storage & Wet Primary Bat. Ind.	Schedule I - Sec.1
Concrete Reinforcing Steel Institute	Sec. 1 (U) Art. VIII

Difficulty of different code requirements as to hours and wages when under one roof

Undergarment & Negligee Industry

Problem of Homework

Artificial Flower & Feather Industry	Article VIII

Productive employees worked over 40 hours

Hat Manufacturing Industry	Article II - Sec.1

Wages below 35¢ minimum

Hat Manufacturing Industry	Article III - Sec.1

Non-Use of Labels

Hat Manufacturing Industry	Article VII

Difficulty in getting statistical information

Paper Bag Manufacturing Industry	Article VIII - Sec.1&2
Processed or Refined Fish Oil Industry	" VII - Title B
Hat Manufacturing Industry	" V

Difficulty of getting members to complain of other members of industry who are violating

Used Textile Bag Industry	Article VI - Sec. 2B

Difficulty of Sample Books and Seasonal Lines

Upholstery & Decorative Fabrics Trade

Difficulty of getting smaller companies to support of Code Authority

Elevator Manufacturing Company

Difficulty in getting budget approved

National Commercial Vehicle Body Ass'n.
Yeast Industry
Processed or Refined Fish Oil Industry

Wants Budget retroactive to date of approval of code

Waste Paper Trade

Object to shift of Collection Division to Washington

Powder Puff Industry

Difficulty of retailers who return merchandise without good cause

Wholesale Millinery Trade	Article IV - Sec. II

Object to system of NRA office getting copy of complaint before Code Authority

Wrecking & Salvage Industry

Difficulty of non-members who refuse to comply

Concrete Reinforcing Steel Institute
Processed or Refined Fish Oil Industry

Problem of keeping closed Sundays while retail code permits it to be open

Wholesale Automotive Trade — Article VII

TROUBLESOME CODE PROVISIONS - PART III

PRICE LISTING

Compressed Air Industry	Article XIII
Heat Exchange Industry	"
Pump Manufacturing Industry	"

If the Supervisory Agency determines that in any branch or subdivision of the heat-exchange industry it has been the generally recognized practice to sell a specified product on the basis of printed net price lists, or price lists with discount sheets and fixed terms of sale and payment, each manufacturer of such product shall within ten (10) days after notice of such determination file with the Supervisory Agency a net price list or a price list and discount sheet, as the case may be, individually prepared by him, showing his current prices, or prices and discounts, and terms of sale and payment, and the Supervisory Agency shall immediately send copies thereof to all known manufacturers of such specified product. Revised price lists and/or discount sheets may be filed from time to time thereafter with the Supervisory Agency by any manufacturer of such product, to become effective upon the date specified therein, but such revised price lists and/or discount sheets shall be filed with the Supervisory Agency twenty (20) days in advance of the effective date, unless the proper Supervisory Committee shall authorize a shorter period. Copies of such revised price lists and/or discount sheets, with notice of the effective date specified, shall be immediately sent to all known manufacturers of such product, who thereupon may file, to become effective upon the date when the revised price list and/or discount sheet first filed shall go into effect, revisions of their price lists and/or discount sheets establishing prices or prices and discounts now lower than those established in the revised price lists and/or discount sheets first filed.

If the Supervisory Agency shall determine that in any branch or subdivision of the heat exchange industry now not selling its product on the basis of price lists, with or without discount sheets, with fixed terms of payment, the distribution or marketing conditions in said branch or subdivision are the same as or similar to the distribution or marketing conditions in a branch or subdivision of the industry where the use of price lists, with or without discount sheets, is well recognized, and that a system of selling on net price lists or price lists and discount sheets with fixed terms of payment should be put into effect in such branch or subdivision, each manufacturer of the product or products of such branch or subdivision shall within twenty (20) days after notice of such determination file with the Supervisory Agency net price lists or price lists and discount sheets, containing fixed terms of payment, showing his prices and discounts and terms of payment, and such price lists and/or discount sheets may be revised in the manner hereinabove provided.

The Supervisory Agency shall have power on its own initiative or on the complaint of any employer to investigate any price for any product shown in any net price list or price list with discount sheet filed with the Supervisory Agency by any employer, and, for the purpose of the investigation therof, to require such employer to furnish such information concerning the cost of manufacturing and selling such product as the Supervisory Agency shall deem necessary or proper for such purposes. If the Supervisory Agency after such investigation shall determine that such price is an unfair price for such product, having regard to the cost of manufacturing and selling such product, and that the maintenance of such unfair price may result in unfair competition in the industry and be contrary to the spirit of the National Industrial Recovery Act, the Supervisory Agency may require the employer that filed the list or discount sheet in which such unfair price is shown to file a new list or discount sheet showing a fair price for such product, which fair price shall become effective immediately upon the filing of such list or discount sheet. If such employer shall not within ten (10) days after notice to it of such determination by the Supervisory Agency file a new list or discount sheet showing such fair price for such product the Supervisory Agency shall have power to fix a fair price product, which fair price, however, shall not be more than the price of any other employer at that time effective for such product, and in respect of which the Supervisory Agency shall not theretofore have begun an investigation or a complaint shall not have been made by any employer. When the decision of the Supervisory Agency fixing such fair price shall have been filed with the Secretary of Heat Exchange Institute and the Secretary shall have given notice thereof to such employer, such fair price shall be the price for such employer for such product until it shall have been changed as in this code provided.

No employer shall sell directly or indirectly by any means whatsoever any product of the industry covered by the provisions of this Article at a price lower or at discounts greater or on more favorable terms of payment than those provided in his current net price lists or price lists and discount sheets. The operation of this Article XIII shall at all times be subject to review by the Administrator.

Floor & Wall Clay Tile Manufacturing Industry - Article IX

A. Each member of the industry shall use an adequate cost accounting system which shall be at least as complete and detailed as the cost accounting system recommended by the Code Authority and approved by the Administrator as hereinafter provided. The Code Authority shall recommend for use in the Industry a uniform and adequate cost-accounting system which shall be adaptable to the cost-accounting procedure and to the business of the Industry. Such plan shall specify the factors which shall be included in determining the costs of each member of the Industry. Upon approval by the Administrator of such a system of cost accounting for the Industry, complete advice concerning it shall be distributed by the Code Authority to all members of the Industry. Thereafter each member of the Industry shall file with the Code Authority his costs for each product of the Industry offered for sale by him. Thereafter no member of the Industry shall initiate a selling price below his own cost or sell the products of the industry at such price or upon such terms or conditions of sale as will result in the purchaser's payment for such product less

than the cost of that member of the Industry who has filed with the Code Authority the lowest cost; provided, however, that the Code Authority may approve, subject to review by the Administrator, the sale of surplus stocks, below such costs where necessary to relieve financial emergencies. A detailed record of such surplus stocks will be filed with and checked by such impartial agency as the Code Authority may designate at the time of application for such approval.

B. Each member of the industry shall publish and file with the Code Authority within ten days after the effective date of the Code a price list individually prepared by him of all products offered for sale or sold by him and all terms and conditions of sale relating thereto. Such price list shall state for each grade and kind of each product sold or offered for sale one price with appropriate discounts therefrom, if any are allowed, for sales to classified types of buyers; provided, however, that such discounts shall not exceed fifteen percent. Such price lists and terms and conditions of sale so filed with the Code Authority shall be open to inspection at all reasonable times by any interested party. Revised price lists or revised terms and conditions of sale may be filed from time to time thereafter with the Code Authority by any member of the Industry; provided, however, that such revisions shall be filed with the Code Authority at least ten days in advance of the effective date thereof; and provided further, that any other member of the Industry may file revisions of his price list or terms and conditions of sale to meet the revisions first filed which may become effective on the date when the revised price list or revised terms and conditions of sale first filed shall become effective.

C. No member of the Industry shall sell or offer for sale any product of the Industry at prices lower than the prices noted in its price list, or on more favorable terms and conditions of sale, than the terms and conditions of sale previously filed by such member with the Code Authority in accordance with the provisions of Section B of this Article and in effect at the time of such sale.

D. A member of the Industry may file with the Code Authority a price to apply between members of the Industry or other manufacturers using tile as a part of other manufactured articles.

Wholesale Confectioners' Industry - Article VII - Sec. 1.

Each member of the industry shall, within ten (10) days after the effective date of this Code, file with the Code Authority or its designated agency not less than five copies of each member's published current price lists covering all the brands and types of candy and confectionary products offered for sale by such member which price list shall become effective not less than five (5) days from the date of filing thereof. All filed price lists shall contain the number of pieces or bars contained in each unit offered for sale by count, and the net weights of such units offered for sale by weight and shall include all discounts, allowances, terms and conditions of sale. After the expiration of the said ten (10) days, each member shall at all times maintain on file with the Code Authority or its designated agency published price lists for all candy and confectionery products, offered for sale, and shall adhere strictly to the prices and terms of such price lists and shall not make any change in such price lists except as herein provided.

Rubber Manufacturing Industry - Chapter III - Article IV - Section 1.

Every member of the Division shall file with the Association, within ten days after the approval of this Code, a complete schedule of his prices and terms of sale to dealers, preferred dealers, distributors, original equipment accounts, and ultimate consumers, as classified in Article III-A, Section 1, for immediate distribution to all other members.

Household Goods Storage and Moving Trade - Article VII - Sec. 1 & 2.

1. Open Prices - Each member of the trade shall file with the appropriate Administrative Board in each area in which he solicits business within forty-five (45) days after the effective date of this Code a complete schedule of his individual terms, rates, tariffs, prices, discounts, dock charges, and all other conditions relating to charges for services in the trade. Each such individual schedule shall be posted in a conspicuous place in each office of such member of the trade and shall be available at the agency designated by the Code Authority or appropriate Administrative Board for the perusal of all persons interested. It shall be an unfair trade practice for any member of the trade to sell, offer to sell or otherwise provided service in accordance with his individual schedule. Any member may, however, meet the filed price of a competitor whose filed price is lower where such competitor actually quotes without collusion a price to a customer or prospective customer, provided that all these facts relating to such transaction are immediately reported to the appropriate Administrative Board. Any member of the trade may file a new schedule effective ten (10) days after filing.

2. Such schedules shall provide a return for each service listed at least equal to the sum of the wages necessary under this Code and to compensate the direct labor required to perform such service and all items of expenses and overhead required by the cost-accounting methods established for the trade by the Code Authority and approved by the Administrator.

The tariff rates or charges for each of the services listed in the schedules shall be separate and distinct, and shall be named in writing when making quotations, and such rates or charges shall be assessed for each and every service performed.

Paper Bag Manufacturing Industry - Article VII - Section 8

Except in fulfillment of bona fide contracts existing on the effective date of this Code, no member of the industry shall sell any products of the Industry for domestic consumption at a price or prices lower than or upon terms or conditions more favorable than stated in his price schedule then on file, provided however, that discontinued lines or damaged goods or seconds of any product may be disposed of in such manner and on such terms and conditions as the Executive Authority of the division into which such products fall may approve. Within ten (10) days after the effective date of this Code, each member shall file with the Executive Authority of the interested division complete details of all such bona fide contracts and this information shall be available to the Code Authority.

Hat Manufacturing Industry - Article V - Section 6

Each member of the Industry shall, within ten (10) days after the effective date of the Code, file with the Institute a list showing the prices for all its products, discounts therefrom and terms of sale, and from and after the expiration of such ten (10) day period, each member of the Industry shall at all times maintain on file with the Institute a list showing the prices for all its products, together with discounts and terms, and shall not make any change therein except as provided for in this Section. Each such list shall state the date upon which it shall become effective, which date, in the event of a price increase, shall be not more than five (5) days after the date of the filing of such list as aforesaid, and, in the event of a price decrease, shall be not less than five (5) days after such date of filing; provided, however, that the first list filed by any member of the Industry as above provided, shall take effect on the date of filing thereof. None of the prices, discounts, or terms, shown in any list filed by any member of the Industry as herein provided shall be changed except by the filing by such member of the Industry with the Institute of a new list, which shall become effective on the effective date therein specified, which date, in the event of a price increase shall be not more than five (5) days after the date of the filing of such list as aforesaid, and, in the event of a price decrease, shall be not less than five (5) days after such date of filing. The prices, discounts and terms in effect prior to the filing of such new list shall continue in effect until those set forth in such new list shall become effective as above provided. All such lists shall be available for inspection by any member of the Industry or other interested party at all reasonable hours.

CONSIGNMENTS

Electric Storage and Wet Primary Battery Industry - Schedule 1, Sec. 5A

There shall be no consignment of goods made to any customer except to a wholly owned subsidiary of the consignor. The term "consignment", as used herein, means the supplying of goods to a consignee for sale by the consignee under an arrangement whereby title to the goods remains in the consignor until such time as they are withdrawn from the consigned stock and/or sold by the consignee, and no liability for the purchase price of the goods arises on the part of the consignee until such time as said goods have been withdrawn from the consigned stock and/or, sold by him.

Wholesale Dry Goods Trade Article IV - Sec. 2

To place merchandise on consignment except under circumstances to be defined by the Divisional Code Authority when peculiar circumstances of the trade make the practice desirable.

SELLING BELOW COST

Electric Storage and Wet Primary Battery Industry Schedule I - Sec. 6

The selling of batteries and battery parts below the manufacturer's cost, except seconds and discontinued lines and to fulfill obligations under guarantees or replacement agreements, is an unfair trade practice. In determining violation of this rule, the cost of the product, applicable to each division of the business or to each product, determined in basic principles as outlined in the uniform cost accounting procedure of the Association, subject to the approval of the Administrator, shall be considered to be the prime cost of material and direct labor; plus factory burden including taxes, depreciation, and ordinary obsolescence; plus selling, advertising, administrative, warehousing, transportation, collection and all other costs and expenses. "Prime Cost" of material shall be understood to be the fair replacement cost of same.

Rubber Manufacturing Industry Article IV - Chapter III - Sec. 2

No member of the Division shall sell any product at prices lower or on terms more favorable than the prices and terms in his price schedules and price lists filed pursuant to Section 1 of this Articel, unless he has first filed revised schedules and lists to take effect in not less than fifteen (15) days from date of filing and has supplied by registered mail sufficient copies of such revised price schedules and lists to permit distribution thereof to all members of the Division. Immediately upon receipt of such revised price shcedules and lists the Association shall mail a copy thereof to each member of the Division. Any member of the Division may then file revised price schedules and lists which, if filed prior to the date when the revised price schedules and lists first filed shall go into effect, may become effective on said date.

Paper Bag Manufacturing Industry Article IX - Sec. H & J

Pay or allow secret rebates, refunds, credits, or unearned discounts, whether in form of money, advertising allowances, or otherwise, or extend to purchases under like terms and conditions.

Allow a discount for cash payment of more than 2%.

PROBLEM OF FREE DELIVERIES

Wholesale Dry Goods Trade Article IV - Sec. 1

The following practices constitute unfair methods of competition:

To deliver merchandise on any basis other than F.O.B. the city in which the wholesaler is located or, in case of direct shipments, F.O.B. city where factory is located.

Free deliveries of merchandise may be made by a wholesaler within but not beyond the metropolitan area of the city in which the wholesaler is located. The Divisional Code Authority may define the metropolitan area in any specific case.

This rule does not apply to those items on which it is the trade practice of the manufacturer to prepay transportation charges to the retail store on goods sold by the wholesaler.

SECOND-HAND OR REBUILT

Electric Storage & Wet Primary Battery Industry - Schedule I - Sec. 1.

(D) The use of branded parts in connection with "rebuilt" batteries, where the plates are of a brand other than that shown on the branded parts, or (2) the branding and/or marketing of batteries as "rebuilt" when in fact all used positive plates, negative plates, and separators have not been replaced with new ones, or (3) failure to mark and identify plainly and permanently "rebuilt" or "repaired" batteries in such a manner as to clearly distinguish them from new batteries for a period longer than 90 days; are unfair trade practices.

Concrete Reinforcing Steel Institute - Sec. 1 (U) Article VIII

DIFFICULTY OF DIFFERENT CODE REQUIREMENTS AS TO HOURS AND WAGES WHEN UNDER ONE ROOF

Undergarment & Negligee Industry

PROBLEM OF HOMEWORK

Artificial Flower & Feather Industry Article VIII

PRODUCTIVE EMPLOYEES WORKED OVER 40 HOURS

Hat Manufacturing Industry Article II - Sec. 1.

Except as hereinafter provided, no employee or member of the Industry engaged in manual and/or mechanical processes of manufacture, shall be permitted to work in excess of forty (40) hours in any one week.

Wholesale Dry Goods Trade Article III - Sec. 1 of Wholesaling or Distributing Trade

(a) No wholesaler or distributor shall cause or permit any employee, except as employee in an executive, supervisory, technical, or professional capacity who receives thirty-five dollars ($35.00) per week, or more, in cities of 500,000 population or over; or thirty dollars ($30.00) per week, or more in cities of less than 500,000 population, and except watchmen and outside salesmen to work more than forty (40) hours per week or to work more than six (6) days in any one week (or less as determined by the Code Authority of any specific trade), except that any member of the trade may cause or permit:

(b) No employee except those exempted in paragraph (a) of this Section shall work more than eight (8) hours in any one day, except that on one day each week each employee may work one extra hour, but such hour is to be included within the maximum hours permitted each week.

(c) Outside deliverymen, maintenance men, outside repair service men and installation men to work forty-eight (48) hours per week.

(d) Watchmen shall work not more than fifty-six (56) hours nor more than six (6) days in any 7 day period.

(e) An employer may work an employee such hours as may be necessary in excess of the hours specified in paragraphs (a) and (c) of this Section if time and one-third is paid for all such additional hours per week.

(f) The hours worked by any one employee in any one day shall be consecutive with the exception of a reasonable period out for lunch.

WAGES BELOW 35¢ MINIMUM

Hat Manufacturing Industry Article III - Sec. 1

No employee shall be paid at less than the rate of thirty-five cents ($0.35) per hour.

NON-USE OF LABELS

Hat Manufacturing Industry Article VII

All hats manufactured or distributed subject to the provisions of this Code shall bear an NRA label to symbolize to purchasers of said hats the conditions under which they were manufactured. Under the power vested in it by the Executive Order of October 14, 1933, and under grant of the necessary authority by the Administrator, the Code Authority shall have the exclusive right in this industry to issue and furnish said labels to the members thereof. There shall be one type of label for new hats and one type for made-over used hats. Each label shall bear a registration number especially assigned to each employer by the Code Authority and remain attached to such hat when sold to the retail distributor. Any and all members of the industry may apply to the Code Authority for a permit to use such NRA label, which permit to use the label shall be granted to them, but only if and so long as they comply with/or delivered prior to the effective date, if manufactured by a member of the industry who is complying with the Code at the time they are so attached.

The Code Authority, subject to approval by the Administrator, shall establish rules and regulations and appropriate machinery for the issuance of labels, and the inspection, examination and supervision of the practices of employer using such labels in observing the provisions of this Code for the purpose of ascertaining the right of said employer to the continued use of said labels; to assure to each individual employer that the symbolism of said label will be maintained by virtue of compliance with the practices herein contained by all other employers using said labels.

The charge made for such labels by the Code Authority shall at all times be subject to supervision and orders of the Administrator and shall be not more than an amount necessary to cover the actual reasonable cost thereof, including actual printing, distribution, and administration and supervision of the use thereof as hereinabove set forth.

With respect to the harvest hat industry, the Code Authority shall make recommendations concerning the application of this provision so that the Administrator, in his discretion, may make this section effective with respect to said Industry.

DIFFICULTY IN GETTING STATISTICAL INFORMATION

Paper Bag Manufacturing Industry Article VIII - Sec. 1 &2

Each member shall prepare and file with the Secretary of the Code Authority at such times and in such manner as it may prescribe, such statistics, data and information relating to plant capacity, volume of production, volume of sales in units and dollars, orders received, unfilled orders, stocks on hand, inventory both raw and finished, number of employees, wage rates, employee earnings, hours of work and other matters, as the Code Authority or the Administrator may from time to time require. Any or all information so furnished by any member shall be subject to checking for the purpose of verification by an examination of the books and accounts and records of such member by any disinterested accountant or accountants or other qualified person or persons designated by the Code Authority.

Except as otherwise provided in the Act, or in this Code, all statistics, data and information filed or required in accordance with the provisions of this Code shall be confidential and the statistics, data and information of one member shall not be revealed to another member except for the purpose of enforcing the provisions of this Code, No such data or information shall be published except in combination with other similar data and in such a manner as to avoid the disclosure of confidential information. The Code Authority shall arrange in such manner as it may determine for the publication currently to members totals of orders received, unfilled orders, shipments, stocks, of finished goods on hand and production.

Processed or Refined Fish Oil Industry Article VII - Title B

(e) To obtain from members of the industry such information and reports as are required for the administration of this code. In addition to information required to be submitted to the Code Authorities, members of the industry shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act to such Administrative and/or government agencies as the Administrator may designate: Provided however, that nothing in this code shall relieve any member of the industry of any existing obligation to furnish reports to any government agency. No individual reports shall be disclosed to any other member of the industry or any other party, except to such government agencies as may be directed by the Administrator.

Hat Manufacturing Industry Article V

3. For the purpose of aiding the Code Authority in judging as to the observance of the Code, in gauging the extent to which the objectives of the Act are being attained, and considering any necessary amendments or additions to the Code, each member of the Industry shall furnish to the institute properly certified reports of such character and in

such form as the Code Authority may prescribe, with the approval of the Administrator, including --

(a) Number of employees;
(b) Wages paid employees;
(c) Hours of work performed by each employee;
(d) Stocks on hand, production, and unfilled orders, together with such other statistics and information as may be required from time to time.

DIFFICULTY OF GETTING MEMBERS TO COMPLAIN OF OTHER MEMBERS OF INDUSTRY WHO ARE VIOLATING

Used Textile Bag Industry Article VI - Section 2 B

To make investigations as to the functioning and observance of any provisions of this Code at its own instance, or on complaint by any person affected, and to report the same to the Administrator.

DIFFICULTY OF SAMPLE BOOKS AND SEASONAL LINES

Upholstery & Decorative Fabrics Trade

DIFFICULTY OF GETTING SMALLER COMPANIES TO SUPPORT OF CODE AUTHORITY

Elevator Manufacturing Company

DIFFICULTY IN GETTING BUDGET APPROVED

National Commercial Vehicle Body Ass'n.
Yeast Industry
Processed or Refined Fish Oil Industry

WANTS BUDGET RETROACTIVE TO DATE OF APPROVAL OF CODE

Waste Paper Trade

OBJECT TO SHIFT OF COLLECTION DIVISION TO WASHINGTON

Powder Puff Industry

DIFFICULTY OF RETAILERS WHO RETURN MERCHANDISE WITHOUT GOOD CAUSE

Wholesale Millinery Trade ARTICLE IV - SECTION 11

Return of merchandise - Merchandise purchased and shipped in good faith and in accordance with the buyers specifications may not be returned for credit by any purchaser; provided, however, that where goods are received in an apparent damaged or imperfect condition or when they do not conform to the specifications contained in the purchase order, a maximum of three (3) successive business days after the receipt of such merchandise will be allowed for the return of same for credit, but provided further that this section shall have no application to the return of merchandise in which the defective conditions cannot be discovered by an ordinary inspection. Whenever a member of the Trade shall accept the return of mer-

chandise after it has been in the customer's possession for more than the said three (3) day period, he shall report such transaction to the Divisional Code Authority and certify that his action was in accordance with this provision. The Divisional Code Authority may require any member of the Trade to present proof that such returns were accepted in good faith and in accordance with the provisions herein.

OBJECT TO SYSTEM OF NRA OFFICE GETTING COPY OF COMPLAINT BEFORE CODE AUTHORITY

Wrecking and Salvage Industry

DIFFICULTY ON NON-MEMBERS WHO REFUSE TO COMPLY

Concrete Reinforcing Steel Institute
Processed or Refined Fish Oil Industry

PROBLEM OF KEEPING CLOSED SUNDAYS WHILE RETAIL CODE PERMITS IT TO BE OPEN

Wholesale Automotive Trade Article VII

(M) The minimum hours of any store or service operation in the Wholesale Automotive Trade shall be fifty-two hours in any one week unless such hours were less than 52 hours per week before July 1, 1933, in which case such hours less than 52 may apply.

No member of the trade shall perform any store or service operation on Sunday and/or holidays as are generally observed in any given district as applying to that district.

Emergency sales or service may be performed in hours not specified in this section under such conditions as the Code Authority may prescribe, subject to the disapproval of the Administrator.

ANNA M. ROSENBERG
State NRA Compliance Director

LLP:R

Appendix 4 (a)

November 19th, 1934

To The National Industrial Recovery Board:

For the reasons set forth in the attached memorandum, the following recommendations are made:

1. The development of the labor compliance machinery of the Compliance Division into a single duty, regional Code Labor Enforcement Service.

2. Leaving to the Code Authorities the initiation of and responsibility for enforcement of fair competition code provisions, subject to supervision by field representatives of a Code Administration Service responsible through the Administrative Divisions of NRA to the National Industrial Recovery Board.

3. Opening up and keeping open free channels of access to the statutory law enforcement agencies from the regional agencies of the Code Labor Enforcement Service and from the Code Authorities.

4. The classification of unfair competition code provisions into (a) those which forbid practices evil in themselves or the prohibition of which has been approved by firm judicial precedent and (b) those which are made unlawful only by the prohibition of the codes and which have not yet received judicial sanction; followed by the adoption of different enforcement procedures applicable respectively to these two classes of provisions, and aided in Class 2 cases by NRA litigation specialists.

5. Recognition that the Blue Eagle is not an instrument of law enforcement, but derives its sanction wholly from co-operative agreement; and adoption of a Blue Eagle removal procedure in harmony with that principle.

(Signed) William H. Davis
William H. Davis

Special Adviser on Compliance
and Enforcement.

November 19th, 1934

ENFORCING CODES OF FAIR COMPETITION

I Enforcement of the wage and hour and related provisions of the codes.

This is a problem that is substantially the same for all codes, and for which a general solution exists. It does not differ in kind from the problem of enforcing State labor and factory laws; and a like technique is applicable.

It requires non-partisan investigation by professionally trained personnel (1) to detect all violations of code wage and hour provisions; (2) to determine the amount of back wages involved; (3) to secure restitution to the workers of the back wages so determined and (4) to put the name of offenders and the evidence of their violations promptly into the hands of the Federal district attorneys for the imposition of fines under Sec. 3 (f) of NIRA; or for civil actions for injunctions under Sec. 3 (c).

A "Code Labor Enforcement Service" having functions 1, 2 and 3 above, responsible to the National Industrial Recovery Board and financed by the NRA appropriations, is recommended below under Title I-A

The statutory "Channels of Enforcement" for carrying out function 4 above are discussed below under Title I-B.

II. Enforcement of fair competition provisions of the several codes.

This presents a separate problem for each industry. No single general solution is possible.

A satisfactory solution of these problems is possible only if (1) a substantial balance is effected between the provisions of each code and the possibilities of enforcement, (2) adequate compliance machinery is effectively coupled through freely open channels to the statutory enforcement agencies -- the Federal Trade Commission (Sec 3 (b) of NIRA) and the local district attorneys, under the direction of the Attorney General (Secs. 3 (c) and 3 (f) of NIRA).

Initiative and responsibility for fair competition belongs to industry. The several code authorities should assume the burden of securing compliance with the fair competition provisions of the codes, and they should be in direct contact with the statutory channels of enforcement. NRA should strive to co-operate effectively with each of the several code authorities in code planning and revision; it should advise and assist in code authority organization; it should supervise code administration by the code authorities, and under its power of review should interpose to prevent monopolistic practices or discrimination against individuals or groups. Its compliance activities should be limited to (1) establishing and maintaining free access by the code.

authorities to the statutory enforcement agencies, and (2) interposing by veto to prevent abuse.

A "Code Administration Service", within NRA, whose duty it would be to co-operate with industry in code revision, in code authority organization, and in maintaining effective contact with the statutory channels of enforcement, and to supervise code administration is discussed below under Titles II-A and B.

The "Channels of Enforcement" of fair competition code provisions are discussed below under Titles II-C and D.

III. The Blue Eagle

It should be made clear that the Blue Eagle is a mark of compliance, not an instrument of enforcement.

The relation of the Blue Eagle to the activities of the proposed "Code Labor Enforcement Service" and of the proposed "Code Administration Service" is discussed below under Title III.

IV. Code Provisions in Aid of Compliance

Code provisions covering the use of Blue Eagle labels, and code provisions with respect to liquidated damages are discussed below under Title IV.

I

A - CODE LABOR ENFORCEMENT SERVICE

1. It is recommended that the Compliance Division be directed to proceed with the development of its existing labor complaints field organization into a single-duty code labor enforcement service divided into regional units preferably according to trade areas, equipped with trained professional personnel and financed from the NRA appropriations.

It is recommended that this service be definitely separated from the activities of the proposed Code Administration Service (Title II).

Enforcement of labor provisions is a vital aspect, to be sure, of fair competition among members of an industry; but it is also of direct personal concern to the workers. It therefore requires a service that is non-partisan and impartial as between management and labor.

The conflict of these two interests occurs within the industrial planning activities of NRA, including the formulation, interpretation and revision of code labor provisions. This conflict is reconciled or terminated for each code provision when that provision is approved by the President. It has no place within enforcement activities. (*)

(*) Cases involving "equitable adjustment of wages" are an unfortunate exception. In them interpretation does devolve upon the enforcement agency.

2. The duties of the Code Labor Enforcement Service would be the detection of violations of code labor provisions, the determination of the amount of back wages involved, the restitution of those wages to the workers, and otherwise securing compliance. It would have of course, no power to modify or amend the code labor provisions. It would take the codes as they are written, and as they are interpreted from time to time by the proper administrative agencies, as the law under which it operates. It should have the power to proceed on its own initiative by investigation and by mass action for compliance. It should not limit its activities to complaints filed with it.

This service should function in all codified industries which now have no labor compliance agencies of their own.

It should serve as a model for, co-operate with and supervise the activities of the labor complaince agencies in the industries where such agencies are now established. The extent to which it shall supplant such existing agencies, and whether other industries shall hereafter be permitted to establish their own code labor compliance agencies, should be determined after full and open conference with all interests in the light of experience as the application of the plan progresses.

It is clear that no established machinery which is now getting results in any particular field of compliance should be superseded by new machinery until that new machinery has achieved at least equally good results in other fields.

It should now be made clear, however, that the Government, either by direct action or by supervision, will assume responsibility for enforcement of code wage and hour provisions.

In addition, the service should be made available to the National Labor Relations Board and its regional boards for investigation and fact-finding (without surrendering any part of its autonomy under NRA and not for mediation, arbitration, adjustment, or enforcement) in cases within the jurisdiction of that Board, and it should co-operate with the National Labor Relations Board and its regional subdivisions in the handling of cases in which the jurisdiction of the two organizations overlap (see National Labor Relations Board Instructions of October 12, 1934, Title III, Pages 10-13)

The service should in like manner be available to the Special Labor Relations Boards established in particular industries, such as the Steel Labor Relations Board, etc.

3. The technique of such investigation, restitution, etc., presents no unsolved problem. It has been developed under State Industrial Commissions enforcing State labor and factory laws in several of the States; by the Federal Tax Collection Service under the Treasury Department, and to a substantial degree by the Compliance Division of NRA and by some code authorities - those in the garment code group, for example.

4. The Code Labor Enforcement Service should have exclusive jurisdiction of labor compliance activities (except where another agency has been duly authorized for a particular industry) and it must be kept as non-partisan and non-political as, let's say, the kidnaping investigation service of the Department of Justice. The authorized code authority labor compliance agencies should be equally non-partisan, and to this end, the Code Labor Enforcement Service in the exercise of its supervision of such agencies should be charged with the duty to maintain such impartiality in accordance with general principles of organization and procedure defined by NIRB.

5. It should proceed with the technique already developed in the Compliance Division, constantly perfecting it in the light of all available experience and research. In addition to its liaison with the NIRB and with the administrative divisions in Washington, its regional directors should maintain like liaison with the regional representatives of the proposed Code Administration Service in the field; with the local representatives of the Department of Justice including the several district attorneys and the NRA litigation specialists, and with the regional investigating agencies of the Federal Trade Commission which are authorized and empowered to make investigations for NRA under Section 6 (c) of NIRA.

6. The Service should entertain and investigate all complaints from employers, from individual employees and from organizations of employees whatever their affiliations.

7. Ancillary code labor provisions (minimum age of employees, home work, handicapped workers, apprentices, etc.) fall in the same category as wage and hour provisions.

8. Special cases of labor enforcement will occur, although in small proportion, in which it will be necessary to make use of the NRA litigation specialists. This should be handled by co-ordination between the labor enforcement service and the litigation division as in code enforcement proceedings under Class 2 fair competition code provisions discussed below (Title II-C).

9. Discretion should be vested in the regional directors with respect to bringing "first offense" cases into court. They should always be brought into court where there is evidence of willful violation, such as suppression or falsification of records, instructing employees to keep quiet, etc. Second offense cases should invariably be brought into court.

10. Enforcement of Sec. 7 (a) of NIRA is a matter for the Industrial Relations Boards and needs no discussion here.

B - CHANNELS OF ENFORCEMENT

1. Through proper legal advisers associated with the "Code Labor Enforcement Service" (or with an approved code authority labor compliance agency) the names of and the evidence relating to persons who have willfully violated the labor provisions of any code should be passed on to the local district attorneys (properly instructed by

the Attorney General) for prosecution in the Federal Courts, in order that such person may be promptly and unfailingly punished by fine under Sec. 3 (f), or subjected to injunction under Sec. 3 (c) of NIRA.

It should be affirmed at once, and unmistakably, that in such cases mere restitution is not enough.

2. The enforcement procedure here involves no novel problem. It requires no centralization in Washington. It is analogous to the procedure in alcohol tax cases and the like, arising in the Treasury Department. It needs only the understanding that these code provisions are to be enforced, plus easily acquired familiarity and technique, on the part of the District Attorneys and their assistants.

3. It is clear that labor code provisions as well as fair competition code provisions need revision in the light of experience and NRA and its administrative divisions will be continuously confronted with questions of interpretations, modification, exceptions, and exemptions. These are, of course, problems of administration to be decided in conference with management and labor and with the advice of the several NRA advisory boards and divisions. It is of greatest importance, however, to the effective operation of the code labor enforcement service, that these matters should be promptly disposed of and that the administrative rulings should be brought promptly and authoritatively to the attention of the Service.

It seems clear that if the labor provisions of the codes can thus be enforced, such enforcement would greatly stabilize competitive conditions; so much so that industry would want to retain its codes for the labor provisions alone.

Law enforcement finally depends upon the support of public opinion. The code wage and hour provisions have been generally accepted by the public and by industry as economically sound.

It is competitively important to each separate unit of industry that the code labor provisions shall be complied with by other units. The thing that leads more than anything else to non-compliance in the rank and file of management is lack of conviction that competitors will comply. It may reasonably be expected that if the recalcitrant ten per cent is made to comply, the rank and file will fall in line.

It might be expected that the support of the code labor provisions by employees would be universal; that an employee would invariably refuse to accept less than code wages, or to work more than code hours. In fact this expectation has not been fulfilled. The principal reason has been the employee's fear of losing his job. The experience of the Compliance Division has also shown, however, instances in which employees

have connived with management to get for themselves an unfair advantage. The most effective instrument for curbing both of these motives is honestly-and-efficiently-run employee organization; and it seems clear that the difficulties of labor enforcement will decrease in each industry in the same proportion that honest and efficient employee organization increases, thereby affording to the conflicting interests in that industry effective mechanism by which they can move along to a solution of their common problems.

II - CODE ADMINISTRATION SERVICE

A - The varying problems in different industries.

Fair competition code provisions which give rise to problems of enforcement may be roughly divided into three classes;

(1) Provisions which aim to build up higher business standards, which are directed to practices generally recognized to be unfair (such as misrepresentation, bribery, hidden rebates, etc.) and which apply equally to all members of the industry; and provisions, the legality of which has been well established by judicial precedents.

(2) Provisions which do not affect all members of the industry in the same way and consequently give rise to charges of discrimination against individuals or groups; and provisions prohibiting practices which are not clearly recognized to be unfair in themselves, and as to the propriety or wisdom of which there is no common agreement, and no firmly established precedent.

(3) Provisions which experience has shown to be economically unwise or unenforceable.

Class 1 and 2 above give rise to quite different problems of enforcement. Provisions of Class 3 above should be eliminated by code revision.

The different compounding of these three Classes in different codes makes the problems of enforcement a special problem for each code.

B - The nature of the Code Administration Service necessary to solve these problems.

The nature of these problems makes necessary the following provisions for their solution:

(1) Code revision to eliminate the unsound and unenforceable code provisions. In general, the code revision in each industry must effect a reasonable balance between what the code contains and

what can be enforced. (*)

(2) The setting up of adequate code authority organization, including a full time fair competition compliance agency adequately directed and financed. (**)

(3) Open channels of prompt and effective co-operation between the code authorities and the statutory enforcement agencies.

(4) NRA supervisory service to assist NIRB in the exercise of its power of review, to insure that the code authorities are truly representative and that the codes in operation do not shelter monopolistic practices or discriminate against individuals or groups (Sec. 3 (a) of NIRA); to advise on code amendments, interpretations, exceptions and exemptions; to detect any code authority malfeasance, and generally to observe and report to NRA on the field aspects of code administration.

It is, of course, understood that existing provisions for complaint and appeal to NRA; to the Federal Trade Commission; and to the Attorney General will be retained.

The foregoing analysis leads directly to the conclusion that the proposed code administration service, including the supervision of fair competition compliance activities, should be under the direction of the administrative divisions of NRA.

Recalling the remark heretofore made, that no efficient compliance machinery should be superseded until better machinery is developed, it nevertheless seems clearly unwise for the Compliance Division to prolong fair competition compliance activities in industries which will not assume that burden for themselves. Mere acquiescence by an industry in governmental compliance and enforcement activities will not produce compliance; that requires industry initiative and effective co-operation. Ineffective and therefore partial enforcement really amounts to discrimination. It is worse than no enforcement at all.

No attempt is made here to suggest details of organization of this Code Administration Service; but it is clear from experience that it must act by immediate contact with code authorities in the several industries; should include an adequate field service through the administration members, and should maintain close liaison in the field with the code authorities; the statutory enforcement agencies, including the several district attorneys, the NRA litigation special-

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(*) Compliance Division statistics of unfair competition complaints in its field offices show that only 32 of the codes are responsible for over 75% of the complaints on hand. Five of these 32 codes are responsible for approximately 30% of the complaints. It does not follow from these statistics that there was good compliance in all other codes, because in some industries there is complete indifference to compliance and

(Footnote Cont'd on next page)

ists, and the Federal Trade Commission field investigators; and with the regional code labor enforcement directors.

C - The Channels of enforcement most appropriate to Class (1) cases.

1. For violation of fair competition code provisions of Class (1) above, it is believed that the "several district attorneys of the United States, in their respective districts, under the direction of the Attorney General" (Sec.3 (c) of NIRA) afford the most direct and satisfactory channels of enforcement.

2. All legal enforcement of the code provisions suffers at the moment from the lack of a body of court interpretations of NIRA. It will gradually be made easier as a body of judicial decisions is built up; particularly when the constitutionality of the Act has been affirmed by the Supreme Court, and when the words "in any transaction in or affecting interstate or foreign commerce" have been clearly defined.

3. In the meantime, however, legal enforcement of the code provisions of Class (1) ought to present no insuperable difficulty. They are generally approved by honest men and have the full support of public opinion; and the Courts and the Federal Trade Commission are generally accustomed to enforce similar or even identical rules. The violations of such code provisions are generally characterized by an element of concealment and the principal problem of enforcement is detection of the violation.

4. How to detect such violations, and through what machinery, is peculiarly a problem to be determined by each industry for itself. It is believed that any industry that really desires to enforce its fair competition provisions can work out its own machinery for doing so, subject only to the advisory and supervisory activities of NRA set forth under Title II-3, Secs. (s) and (4) above. Such code authority fair competition compliance agencies ought to be able to dispose of the great majority of cases of Class (1) without court proceedings.

5. It is believed that enforcement in cases of Class (1) requires no centralization in Washington and no further assistance from NRA and from the Department of Justice than is necessary to see that

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(Footnote Cont'd)

(*) enforcement; but the statistics do give some indication as to where the code revision and overhauling of code authority organization and fair competition compliance activities should begin.

(**) It is worth noting, from Compliance Division experience, that any well founded charge that a code authority is not truly representative (Sec. 3.(a) of NIRA), makes practically impossible the enforcement of the code against the unrepresented fraction of the industry.

the channels of communication from the code authorities through the district attorneys to the courts are opened up and kept open.

6. The fact is not overlooked that the Federal Trade Commission has authority to entertain and to act on complaints of unfair competition; and this power is not only preserved but the scope of the Commission's authority is enlarged by Sec. 3 (b) of NIRA. The Federal Trade Commission has no power to impose a fine and is consequently not available for cases where procedure by criminal prosecution is advisable. Furthermore, and more important, the Federal Courts have the great advantage, for cases of Class (1), that they are decentralized (see also Title II-D, Sec. 3 page 20, post).

7. It is also to be remembered that the Attorney General alone has the power and the duty to proceed in court actions under the Anti-Trust Laws where operations allegedly conducted under the authorization of codes lead to monopolies or monopolistic practices, in contravention of Sec. 3 (a) of NIRA.

If enforcement of code provisions of Class 1 can be substantially effected by some such procedure as is outlined above, that will add very greatly to the stabilization of code administration and of competitive conditions. It should lead to a growing support of the codes by industry and by the public generally.

It is believed to be supremely important that the growth of such public approval should not be arrested by ineffective or premature enforcement of code provisions of Class 2.

The provisions of Class 2 will, however, be automatically transferred to Class 1 as and when a firm precedent is established for each of them. If the attempt to establish such a precedent for any provision of Class 2 fails, the effect will be to eliminate it automatically from the Code. The final result will therefore be to transfer all retained code revisions into Class 1.

D - The channels of enforcement appropriate to Class 2 cases.

1. Everyone concerned with the enforcement of code provisions of Class 2 above must swallow, digest and assimilate the fact that the establishment of a firm precedent of each type is the first step toward general enforcement. There is no by-pass for this step under the Act, or indeed under our system of government. The available paths in that direction are the Federal Courts and the Federal Trade Commission.

2. The Federal Courts. To establish such precedents in

the Federal Courts requires something more than the routine services of the district attorneys' offices. Similar situations have frequently arisen in our history under other laws, such as the Anti-Trust Laws, the Revenue Laws, and the enforcement of Sec. 7 (a) of NIRA. The established practice is to aid, instruct and supplement the staff of the district attorneys by special employees of the Department of Justice and by special counsel.

The litigation section of the Legal Division of NRA is now acting in that field in co-operation with the Department of Justice, and it is understood that plans for still closer co-operation are under way. It remains to establish effective contact between the field agents of the litigation section and the legal advisers of the code authorities, and with the several district attorneys. It seems clear that the work of these litigation specialists, which has already produced good results, would be more effective if they were deputized agents of the Department of Justice.

3. The Federal Trade Commission. Another statutory channel through which the desired precedents may be established is the Federal Trade Commission (Sec. 3(b) of NIRA and Executive Order of January 20, 1934, No. 6469). It is believed that this channel affords possibilities of action much more rapid and effective than is generally believed.

The Federal Trade Commission Act establishes a statutory proceeding designed to lead to a final court decree restraining the use of "unfair methods of competition in commerce" and by Sec. 3 (b) of NIRA this includes the power to restrain the violation of code provisions approved by the President. The "cease and desist" orders of the Commission are immediately appealable, either by the Commission or by the person against whom the order is issued, directly to the United States Circuit Courts of Appeal whose decisions are final unless reviewed by the Supreme Court upon certiorari; and the Act provides that "such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and should be in every way expedited".

There has already been established, by co-operation between the Federal Trade Commission and NRA, a procedure under which NRA representing a code authority may initiate and prosecute a case before the Commission. There seems to be no reason why this practice could not be extended to the initiation of complaint immediately by the code authorities if that seems desirable.

In a case where a code authority, or the litigation section of the Legal Division of NRA, is fully prepared for trial, there is no reason why a case should not be initiated before the Federal Trade Commission with immediate issuance of formal complaint on proof by affidavit of code voilation; set by the Commission for hearing at the end of thirty days after the service of a formal complaint on the respondent; promptly decided and brought into the Court of Appeals where it has precedence.

This path to the Court of Appeals is shorter and quicker than any other, and it is believed to have the further advantage that the Federal Trade Commission in its administrative capacity is equipped and trained to investigate unfair competitive practices. It may safely be assumed that the Federal Trade Commission and the National Recovery Administration have a common purpose and will be able to co-operate to a common end.

The Federal Trade Commission has effective procedure for extending to a whole industry its prohibition of an unfair competitive practice when the precedent is once established, and its experience is that in such cases "cease and desist orders", if necessary, are consented to by other members of the industry without contest.

It seems not unreasonable to hope that through these channels it will be possible gradually to build up authoritative precedents in Class 2 cases, with growing public support for the judicially approved code provisions.

It is fundamentally important that the country should understand that NRA code enforcement is going to be conducted within the law; that it will be carried on in accordance with the temper of our people along the well trodden paths of Constitutional procedure.

III. THE BLUE EAGLE

The Blue Eagle (Code Eagle) is not a statutory instrument of enforcement. It derives its sanctions wholly from co-operative agreement.

A member of industry who does not agree with rules adopted by the majority of his industry and approved by the President, and who is not complying with the code, should surrender the Blue Eagle. His continued use of it is a false representation which should be stopped.

It is believed, however, that a person should be forbidden to display the Blue Eagle only when he has actually surrendered it or tacitly surrendered it by continued violation of a code provision which forbids an act evil in itself or for which a firm judicial precedent has been established (the usual labor provisions and fair competition provisions of Class 1).

If there is any reasonable doubt as to the fact of code viola-

tion, or if the code provision is of Class 2 above, action on Blue Eagle withdrawal should be suspended until after judicial determination of the litigatable question.

Irreparable injury to either side of the controversy during the period of litigation may be prevented by bond or preliminary injunction, either agreed to or imposed upon application to the Court.

IV. CODE PROVISIONS IN AID OF COMPLIANCE

1 - Labels. Codes label provisions in one form or another have been incorporated in 43 of the 520 codes and 155 supplements approved up to October 10, 1934. Legality of the provisions of the millinery code has been upheld by Federal Judge Caffey in the Southern District of New York. Administrative provision has been made for the prompt review of the refusal of labels by code authorities to guard against discrimination, and it is believed that up to date doubts have always been resolved in favor of the member of the industry seeking labels. Under continued good administration, and within the principle set forth under Title III above, this seems to be an effective instrument of compliance.

2 - Liquidated damages. A provision for liquidated damages was in the Steel Code as approved by the President and has recently been incorporated in the Retail Automobile Code and in the Macaroni Code. The form approved by the legal division is properly limited to industry members who have specifically agreed. If the use of this provision is to be extended, it is believed that the enforcement of the agreement should be by the usual court procedure for breach of contract and that it should be administered by an agency of the group who have agreed - not by the code authority.

The use of liquidated damages can easily be turned into an abuse by coercing a code violator into signing the agreement. Neither a code authority nor NRA has any statutory power to impose civil penalties, and liquidated damages can be collected for departure from code provisions only by *really* voluntary agreement (See the opinion addressed by the Attorney General to the President dated June 21, 1934, No. 7211).

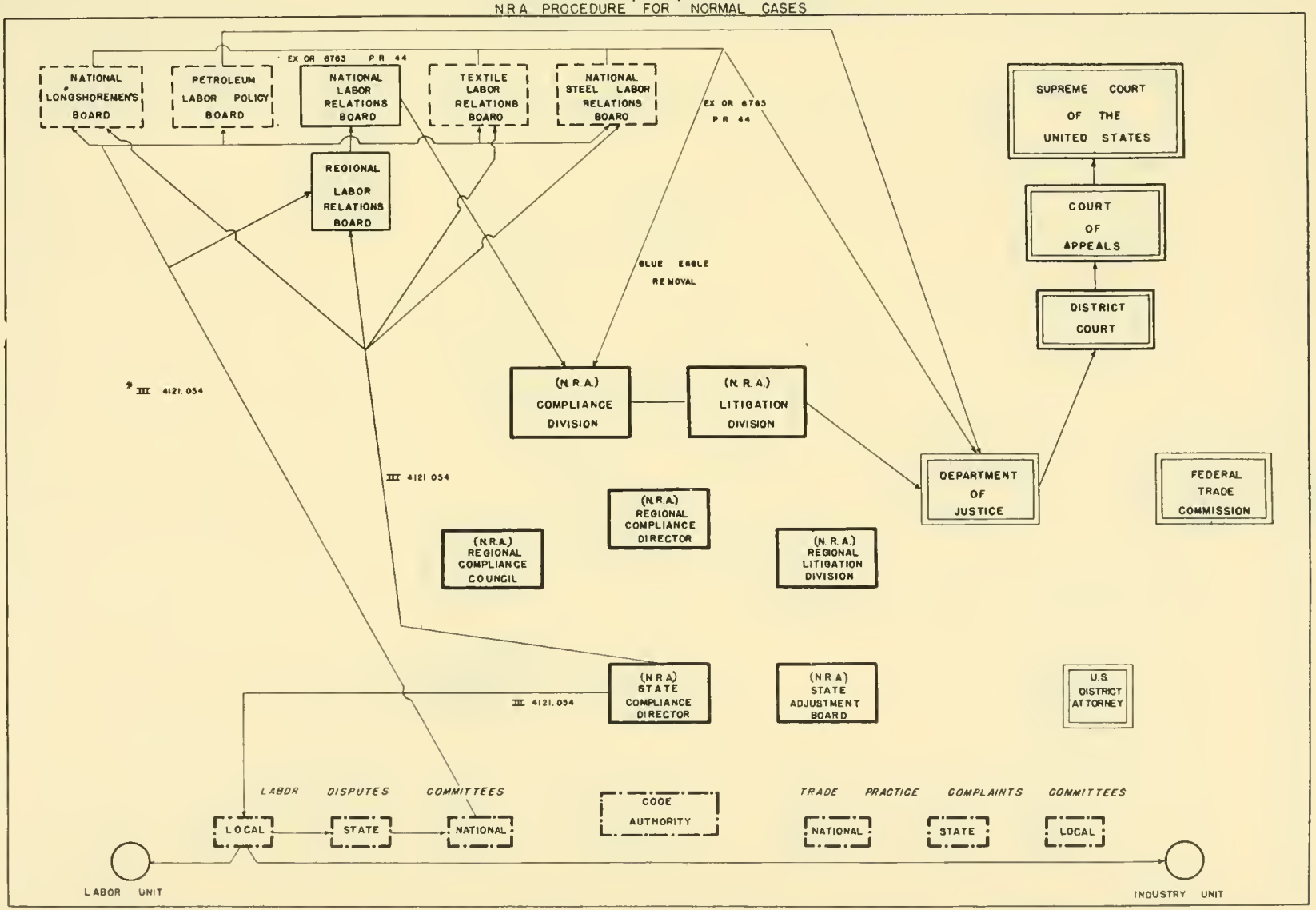
The tendency is to use such code provisions in aid of compliance where there has been an excessive volume of non-compliance with a particular code provision. But it should be borne in mind that excessive volume of non-compliance indicates that there is something wrong with the provision, and usually indicates that it is discriminatory. It is a danger common to these aids to compliance that, unless their administration is very carefully supervised, they may result in the enforcement of code provisions which had better be amended.

APPENDIX 5

LABOR DISPUTES **Appendix 5**

(7-A)

N.R.A. PROCEDURE FOR NORMAL CASES



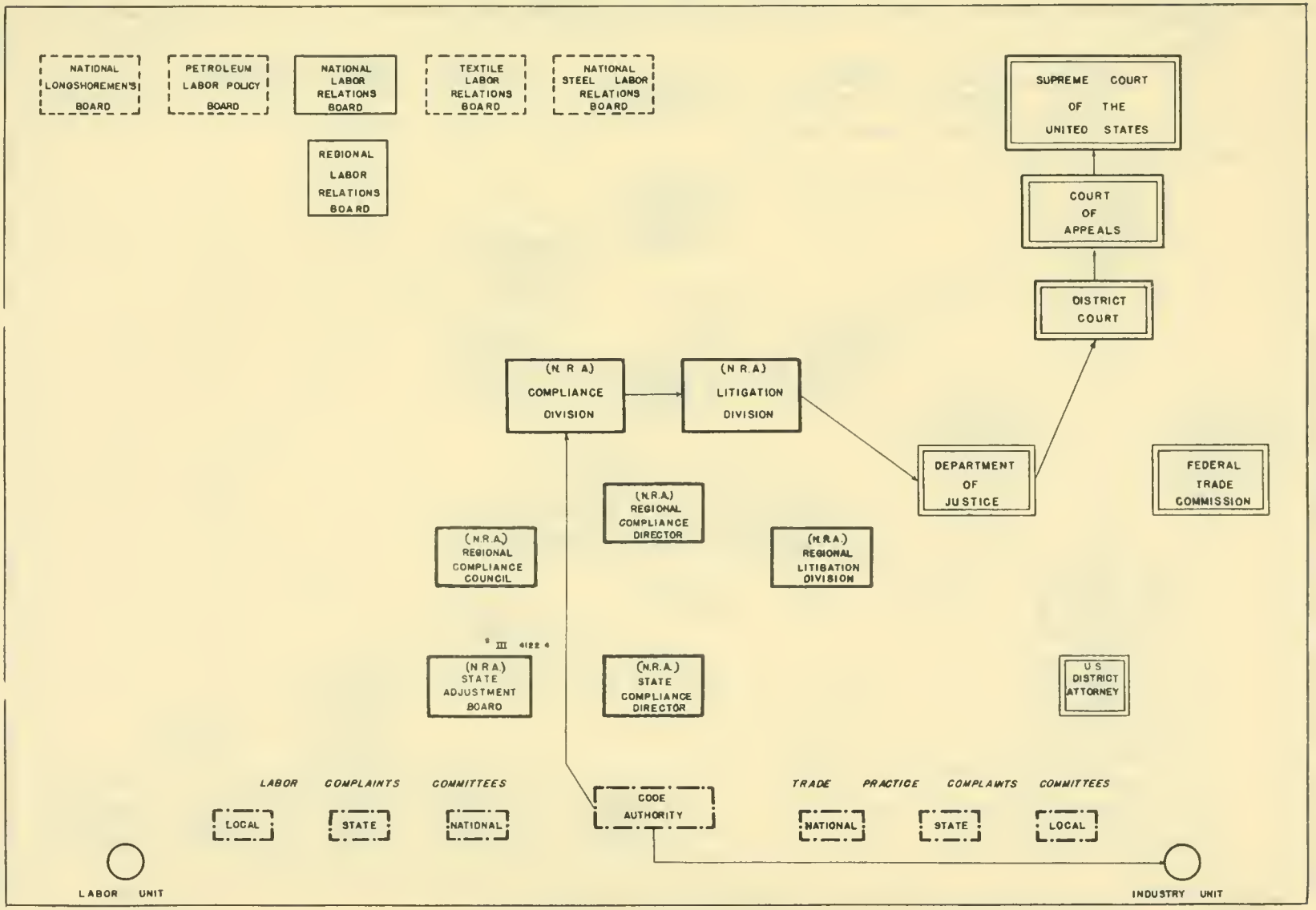
SOURCE N R A OFFICE MANUAL
W H RASTALL
DIVISION OF REVIEW
N R A ORGANIZATION STUDIES SECTION
MAY 26, 1935

*REFERENCE TO PART AND PARAGRAPH OF THE N R A OFFICE MANUAL

N R A.
DIVISION OF REVIEW
STATISTICS SECTION
NO. 364

FAILURE TO CONTRIBUTE

N R A PROCEDURE FOR NORMAL CASES



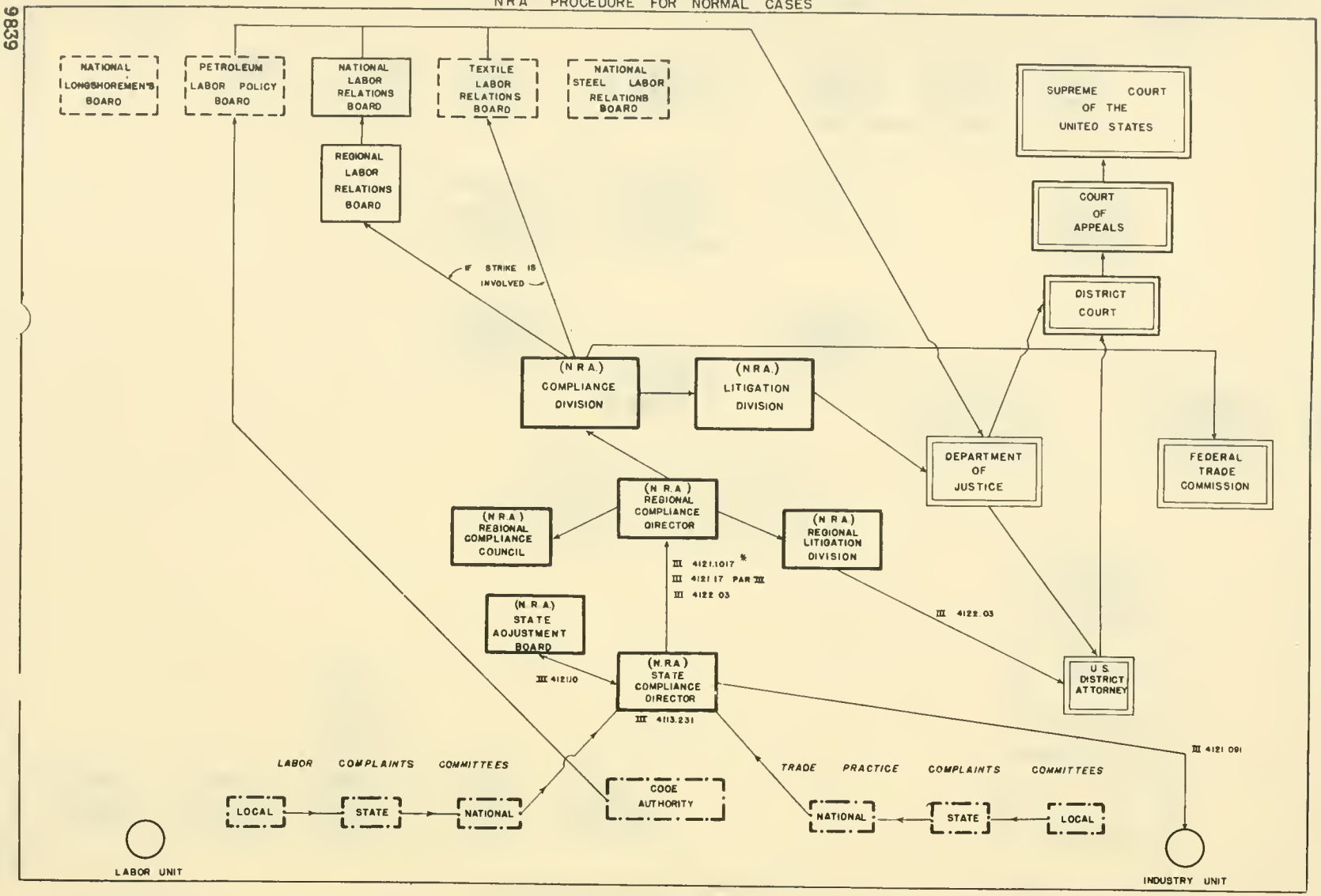
SOURCE: N R A OFFICE MANUAL
W H RASTALL
DIVISION OF REVIEW
N.R.A ORGANIZATION STUDIES SECTION
MAY 26, 1935

§ REFERENCE TO PART AND PARAGRAPH OF THE N R A OFFICE MANUAL.

N. R. A.
DIVISION OF REVIEW
STATISTICS SECTION
NO. 359

LABOR COMPLAINTS
(WITHOUT AUTHORIZED ADJUSTMENT AGENCIES)
N.R.A. PROCEDURE FOR NORMAL CASES

9839



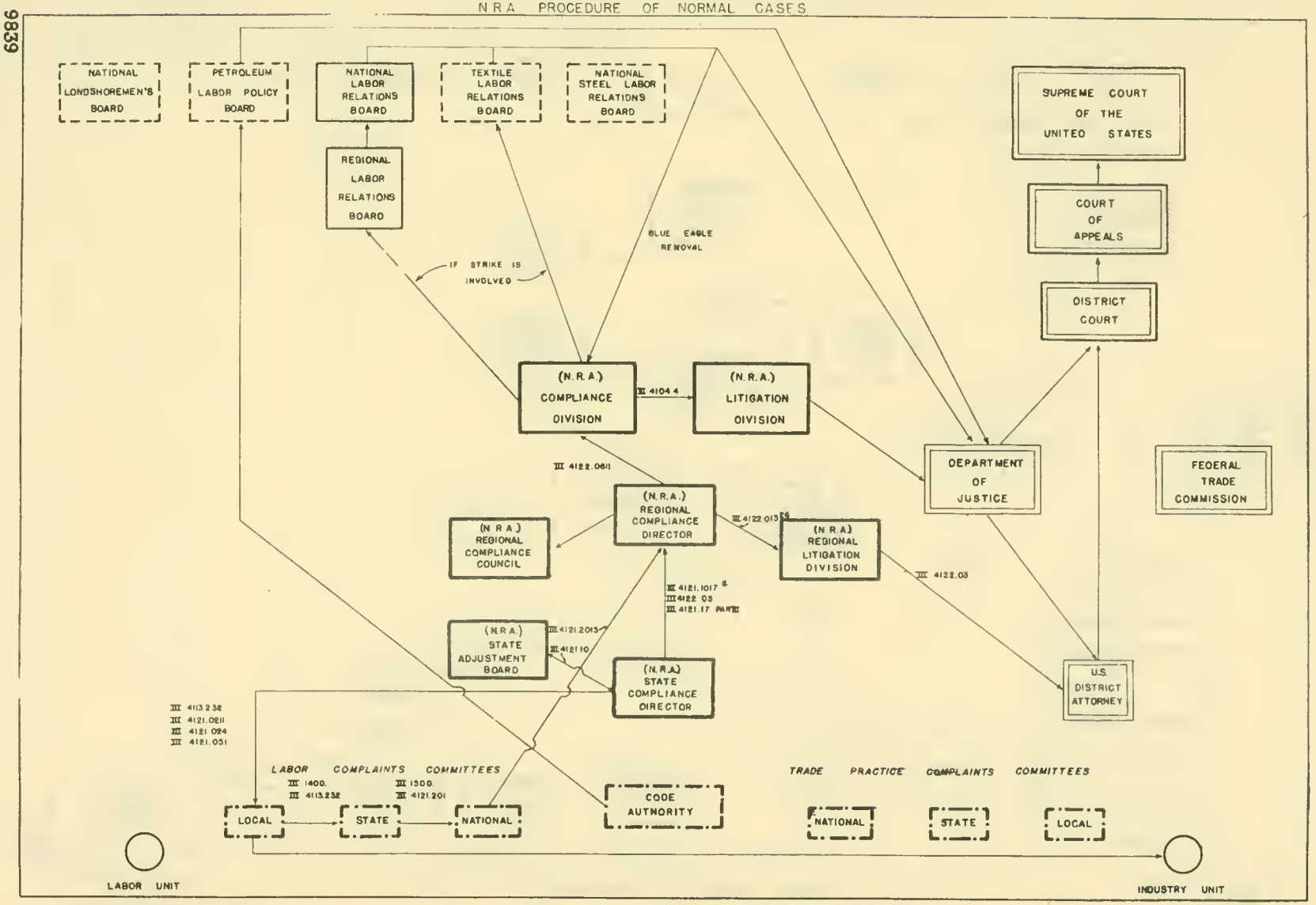
-288-

SOURCE: N.R.A. OFFICE MANUAL
W. H. RASTALL
DIVISION OF REVIEW
N.R.A. ORGANIZATION STUDIES SECTION
MAY 26, 1935

* REFERENCE TO PART AND PARAGRAPH OF N.R.A. OFFICE MANUAL.

N.R.A.
DIVISION OF REVIEW
STATISTICS SECTION
NO. 368

LABOR COMPLAINTS
(WITH AUTHORIZED ADJUSTMENT AGENCIES)
N.R.A. PROCEDURE OF NORMAL CASES



* REFERENCE TO PART AND PARAGRAPH OF THE N.R.A. OFFICE MANUAL

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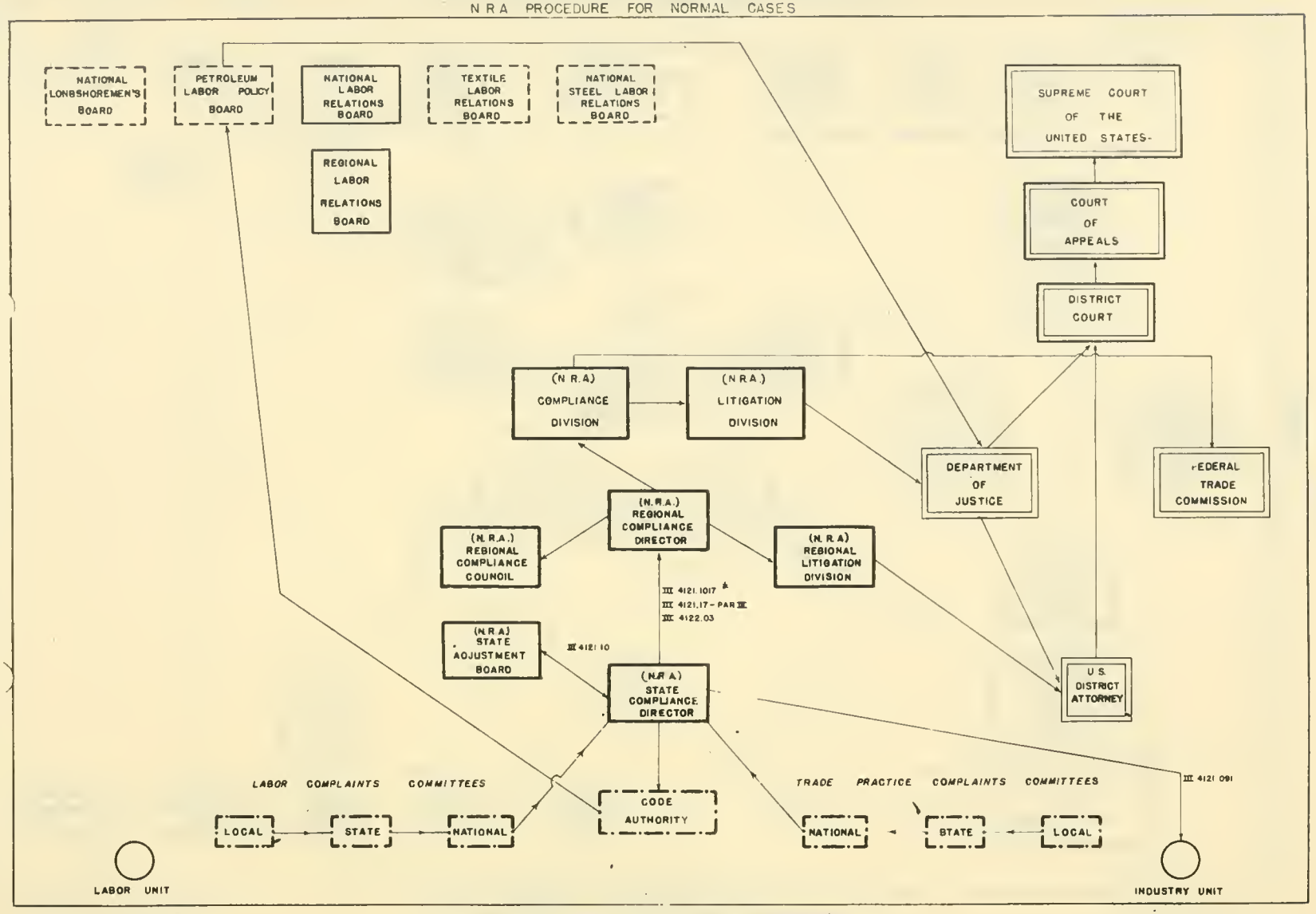
N.R.A. ORGANIZATION STUDIES SECTION
MAY 26 1935

N.R.A.
DIVISION OF REVIEW
STATISTICS SECTION
NO. 367

TRADE PRACTICE COMPLAINTS
(WITHOUT AUTHORIZED ADJUSTMENT AGENCIES)
N R A PROCEDURE FOR NORMAL CASES

9839



-280-

SOURCE: N R A OFFICE MANUAL
W.N. RASTALL
DIVISION OF REVIEW
N R A ORGANIZATION STUDIES SECTION
MAY 26, 1935

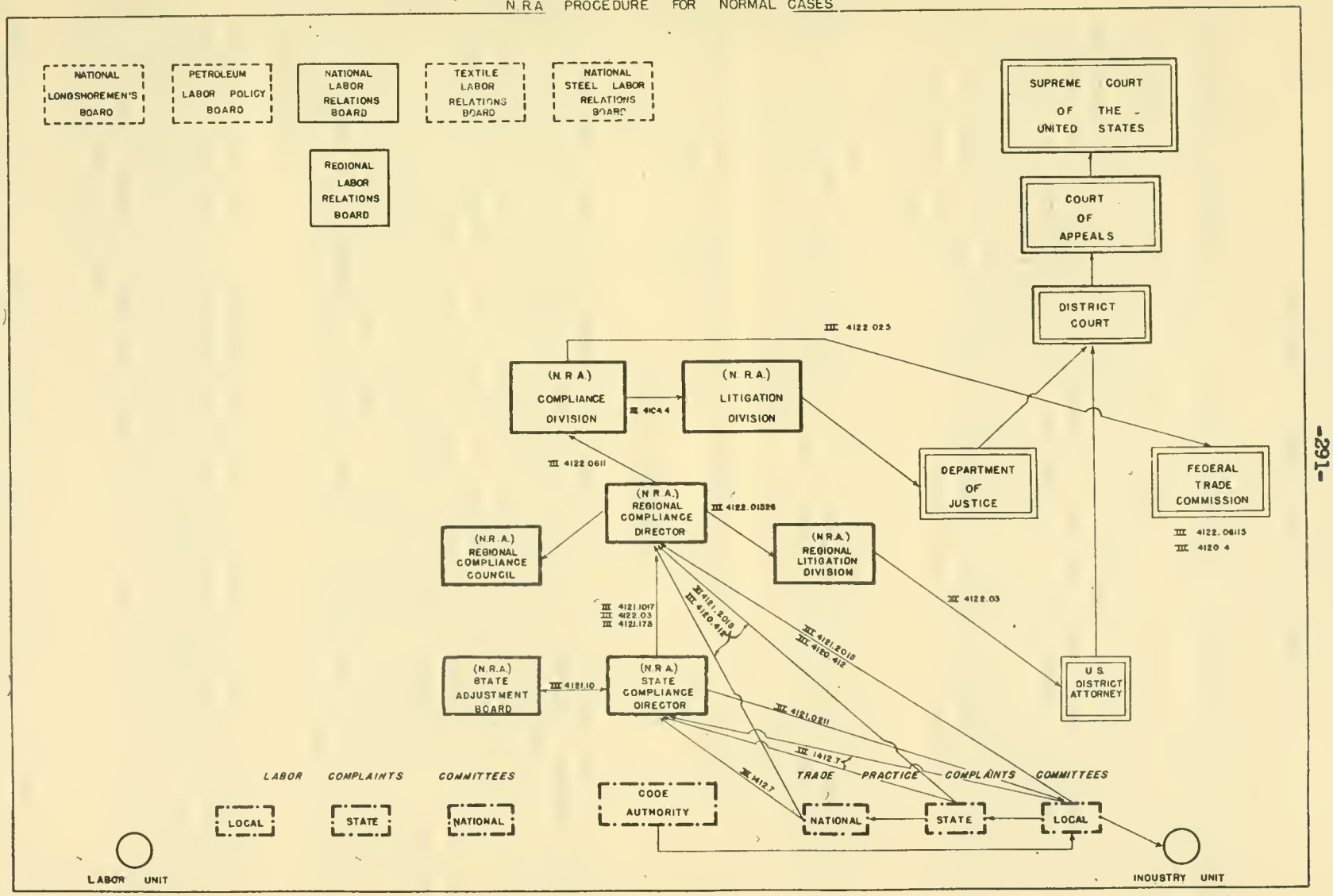
* REFERENCE TO PART AND PARAGRAPH OF THE N R A OFFICE MANUAL

N R A
DIVISION OF REVIEW
STATISTICS SECTION
NO 336

TRADE PRACTICE COMPLAINTS

(WITH AUTHORIZED ADJUSTMENT AGENCIES)

N.R.A. PROCEDURE FOR NORMAL CASES



SOURCE: N.R.A. OFFICE MANUAL
W. H. RASTALL
DIVISION OF REVIEW
N.R.A. ORGANIZATION STUDIES SECTION
MAY 26, 1935

* REFERENCE TO PART AND PARAGRAPH OF THE N.R.A. OFFICE MANUAL.

N. R. A.
DIVISION OF REVIEW
STATISTICS SECTION
NO. 365

OFFICE OF THE NATIONAL RECOVERY ADMINISTRATION

THE DIVISION OF REVIEW

THE WORK OF THE DIVISION OF REVIEW

Executive Order No. 7075, dated June 15, 1935, established the Division of Review of the National Recovery Administration. The pertinent part of the Executive Order reads thus:

> The Division of Review shall assemble, analyze, and report upon the statistical information and records of experience of the operations of the various trades and industries heretofore subject to codes of fair competition, shall study the effects of such codes upon trade, industrial and labor conditions in general, and other related matters, shall make available for the protection and promotion of the public interest an adequate review of the effects of the Administration of Title I of the National Industrial Recovery Act, and the principles and policies put into effect thereunder, and shall otherwise aid the President in carrying out his functions under the said Title. I hereby appoint Leon C. Marshall, Director of the Division of Review.

The study sections set up in the Division of Review covered these areas: industry studies, foreign trade studies, labor studies, trade practice studies, statistical studies, legal studies, administration studies, miscellaneous studies, and the writing of code histories. The materials which were produced by these sections are indicated below.

Except for the Code Histories, all items mentioned below are scheduled to be in mimeographed form by April 1, 1936.

THE CODE HISTORIES

The Code Histories are documented accounts of the formation and administration of the codes. They contain the definition of the industry and the principal products thereof; the classes of members in the industry; the history of code formation including an account of the sponsoring organizations, the conferences, negotiations and hearings which were held, and the activities in connection with obtaining approval of the code; the history of the administration of the code, covering the organization and operation of the code authority, the difficulties encountered in administration, the extent of compliance or non-compliance, and the general success or lack of success of the code; and an analysis of the operation of code provisions dealing with wages, hours, trade practices, and other provisions. These and other matters are canvassed not only in terms of the materials to be found in the files, but also in terms of the experiences of the deputies and others concerned with code formation and administration.

The Code Histories, (including histories of certain NRA units or agencies) are not mimeographed. They are to be turned over to the Department of Commerce in typewritten form. All told, approximately eight hundred and fifty (850) histories will be completed. This number includes all of the approved codes and some of the unapproved codes. (In Work Materials No. 18, Contents of Code Histories, will be found the outline which governed the preparation of Code Histories.)

(In the case of all approved codes and also in the case of some codes not carried to final approval, there are in NRA files further materials on industries. Particularly worthy of mention are the Volumes I, II and III which constitute the material officially submitted to the President in support of the recommendation for approval of each code. These volumes

set forth the origination of the codes, the sponsoring group, the evidence advanced to support the proposal, the report of the Division of Research and Planning on the industry, the recommendations of the various Advisory Boards, certain types of official correspondence, the transcript of the formal hearing, and other pertinent matter. There is also much official information relating to amendments, interpretations, exemptions, and other rulings. The materials mentioned in this paragraph were of course not a part of the work of the Division of Review.)

THE WORK MATERIALS SERIES

In the work of the Division of Review a considerable number of studies and compilations of data (other than those noted below in the Evidence Studies Series and the Statistical Material Series) have been made. These are listed below, grouped according to the character of the material. (In Work Materials No. 17, Tentative Outlines and Summaries of Studies in Process, the materials are fully described).

Industry Studies

Automobile Industry, An Economic Survey of
Bituminous Coal Industry under Free Competition and Code Regulation, Ecnomic Survey of
Electrical Manufacturing Industry, The
Fertilizer Industry, The
Fishery Industry and the Fishery Codes
Fishermen and Fishing Craft, Earnings of
Foreign Trade under the National Industrial Recovery Act
  Part A - Competitive Position of the United States in International Trade 1927-29 through 1934.
  Part B - Section 3 (e) of NIRA and its administration.
  Part C - Imports and Importing under NRA Codes.
  Part D - Exports and Exporting under NRA Codes.
Forest Products Industries, Foreign Trade Study of the
Iron and Steel Industry, The
Knitting Industries, The
Leather and Shoe Industries, The
Lumber and Timber Products Industry, Economic Problems of the
Men's Clothing Industry, The
Millinery Industry, The
Motion Picture Industry, The
Migration of Industry, The: The Shift of Twenty-Five Needle Trades From New York State, 1926 to 1934
National Labor Income by Months, 1929-35
Paper Industry, The
Production, Prices, Employment and Payrolls in Industry, Agriculture and Railway Transportation, January 1923, to date
Retail Trades Study, The
Rubber Industry Study, The
Textile Industry in the United Kingdom, France, Germany, Italy, and Japan
Textile Yarns and Fabrics
Tobacco Industry, The
Wholesale Trades Study, The
Women's Neckwear and Scarf Industry, Financial and Labor Data on

Women's Apparel Industry, Some Aspects of the

Trade Practice Studies

Commodities, Information Concerning: A Study of NRA and Related Experiences in Control
Distribution, Manufacturers' Control of: Trade Practice Provisions in Selected NRA Codes
Distributive Relations in the Asbestos Industry
Design Piracy: The Problem and Its Treatment Under NRA Codes
Electrical Mfg. Industry: Price Filing Study
Fertilizer Industry: Price Filing Study
Geographical Price Relations Under Codes of Fair Competition, Control of
Minimum Price Regulation Under Codes of Fair Competition
Multiple Basing Point System in the Lime Industry: Operation of the
Price Control in the Coffee Industry
Price Filing Under NRA Codes
Production Control in the Ice Industry
Production Control, Case Studies in
Resale Price Maintenance Legislation in the United States
Retail Price Cutting, Restriction of, with special Emphasis on The Drug Industry.
Trade Practice Rules of The Federal Trade Commission (1914-1936): A classification for comparision with Trade Practice Provisions of NRA Codes.

Labor Studies

Cap and Cloth Hat Industry, Commission Report on Wage Differentials in
Earnings in Selected Manufacturing Industries, by States, 1933-35
Employment, Payrolls, Hours, and Wages in 115 Selected Code Industries 1933-35
Fur Manufacturing, Commission Report on Wages and Hours in
Hours and Wages in American Industry
Labor Program Under the National Industrial Recovery Act, The
  Part A. Introduction
  Part B. Control of Hours and Reemployment
  Part C. Control of Wages
  Part D. Control of Other Conditions of Employment
  Part E. Section 7(a) of the Recovery Act
Materials in the Field of Industrial Relations
PRA Census of Employment, June, October, 1933
Puerto Rico Needlework, Homeworkers Survey

Administrative Studies

Administrative and Legal Aspects of Stays, Exemptions and Exceptions, Code Amendments, Conditional Orders of Approval
Administrative Interpretations of NRA Codes
Administrative Law and Procedure under the NIRA
Agreements Under Sections 4(a) and 7(b) of the NIRA
Approved Codes in Industry Groups, Classification of
Basic Code, the -- (Administrative Order X-61)
Code Authorities and Their part in the Administration of the NIRA
  Part A. Introduction
  Part B. Nature, Composition and Organization of Code Authorities

Part C. Activities of the Code Authorities
Part D. Code Authority Finances
Part E. Summary and Evaluation
Code Compliance Activities of the NRA
Code Making Program of the NRA in the Territories, The
Code Provisions and Related Subjects, Policy Statements Concerning
Content of NIRA Administrative Legislation
Part A. Executive and Administrative Orders
Part B. Labor Provisions in the Codes
Part C. Trade Practice Provisions in the Codes
Part D. Administrative Provisions in the Codes
Part E. Agreements under Sections 4(a) and 7(b)
Part F. A Type Case: The Cotton Textile Code
Labels Under NRA, A Study of
Model Code and Model Provisions for Codes, Development of
National Recovery Administration, The: A Review of its Organization and Activities
NRA Insignia
President's Reemployment Agreement, The
President's Reemployment Agreement, Substitutions in Connection with the
Prison Labor Problem under NRA and the Prison Compact, The
Problems of Administration in the Overlapping of Code Definitions of Industries and Trades, Multiple Code Coverage, Classifying Individual Members of Industries and Trades
Relationship of NRA to Government Contracts and Contracts Involving the Use of Government Funds
Relationship of NRA with States and Municipalities
Sheltered Workshops Under NRA
Uncodified Industries: A Study of Factors Limiting the Code Making Program

Legal Studies

Anti-Trust Laws and Unfair Competition
Collective Bargaining Agreements, the Right of Individual Employees to Enforce
Commerce Clause, Federal Regulation of the Employer-Employee Relationship Under the
Delegation of Power, Certain Phases of the Principle of, with Reference to Federal Industrial Regulatory Legislation
Enforcement, Extra-Judicial Methods of
Federal Regulation through the Joint Employment of the Power of Taxation and the Spending Power
Government Contract Provisions as a Means of Establishing Proper Economic Standards, Legal Memorandum on Possibility of
Industrial Relations in Australia, Regulation of
Intrastate Activities Which so Affect Interstate Commerce as to Bring them Under the Commerce Clause, Cases on
Legislative Possibilities of the State Constitutions
Post Office and Post Road Power — Can it be Used as a Means of Federal Industrial Regulation?
State Recovery Legislation in Aid of Federal Recovery Legislation History and Analysis
Tariff Rates to Secure Proper Standards of Wages and Hours, the Possibility of Variation in
Trade Practices and the Anti-Trust Laws
Treaty Making Power of the United States
War Power, Can it be Used as a Means of Federal Regulation of Child Labor?

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THE EVIDENCE STUDIES SERIES

The Evidence Studies were originally undertaken to gather material for pending court cases. After the Schechter decision the project was continued in order to assemble data for use in connection with the studies of the Division of Review. The data are particularly concerned with the nature, size and operations of the industry; and with the relation of the industry to interstate commerce. The industries covered by the Evidence Studies account for more than one-half of the total number of workers under codes. The list of those studies follows:

Automobile Manufacturing Industry
Automotive Parts and Equipment Industry
Baking Industry
Boot and Shoe Manufacturing Industry
Bottled Soft Drink Industry
Builders' Supplies Industry
Canning Industry
Chemical Manufacturing Industry
Cigar Manufacturing Industry
Coat and Suit Industry
Construction Industry
Cotton Garment Industry
Dress Manufacturing Industry
Electrical Contracting Industry
Electrical Manufacturing Industry
Fabricated Metal Products Mfg. and Metal Finishing and Metal Coating Industry
Fishery Industry
Furniture Manufacturing Industry
General Contractors Industry
Graphic Arts Industry
Gray Iron Foundry Industry
Hosiery Industry
Infant's and Children's Wear Industry
Iron and Steel Industry
Leather Industry
Lumber and Timber Products Industry
Mason Contractors Industry
Men's Clothing Industry
Motion Picture Industry
Motor Vehicle Retailing Trade
Needlework Industry of Puerto Rico
Painting and Paperhanging Industry
Photo Engraving Industry
Plumbing Contracting Industry
Retail Lumber Industry
Retail Trade Industry
Retail Tire and Battery Trade Industry
Rubber Manufacturing Industry
Rubber Tire Manufacturing Industry
Shipbuilding Industry
Silk Textile Industry
Structural Clay Products Industry
Throwing Industry
Trucking Industry
Waste Materials Industry
Wholesale and Retail Food Industry
Wholesale Fresh Fruit and Vegetable Industry
Wool Textile Industry

THE STATISTICAL MATERIALS SERIES

This series is supplementary to the Evidence Studies Series. The reports include data on establishments, firms, employment, payrolls, wages, hours, production capacities, shipments, sales, consumption, stocks, prices, material costs, failures, exports and imports. They also include notes on the principal qualifications that should be observed in using the data, the technical methods employed, and the applicability of the material to the study of the industries concerned. The following numbers appear in the series:
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Asphalt Shingle and Roofing Industry
Business Furniture
Candy Manufacturing Industry
Carpet and Rug Industry
Cement Industry
Cleaning and Dyeing Trade
Coffee Industry
Copper and Brass Mill Products Industry
Cotton Textile Industry
Electrical Manufacturing Industry
Fertilizer Industry
Funeral Supply Industry
Glass Container Industry
Ice Manufacturing Industry
Knitted Outerwear Industry
Paint, Varnish, and Lacquer, Mfg. Industry
Plumbing Fixtures Industry
Rayon and Synthetic Yarn Producing Industry
Salt Producing Industry

THE COVERAGE

The original, and approved, plan of the Division of Review contemplated resources sufficient (a) to prepare some 1200 histories of codes and NRA units or agencies, (b) to consolidate and index the NRA files containing some 40,000,000 pieces, (c) to engage in extensive field work, (d) to secure much aid from established statistical agencies of government, (e) to assemble a considerable number of experts in various fields, (f) to conduct approximately 25% more studies than are listed above, and (g) to prepare a comprehensive summary report.

Because of reductions made in personnel and in use of outside experts, limitation of access to field work and research agencies, and lack of jurisdiction over files, the projected plan was necessarily curtailed. The most serious curtailments were the omission of the comprehensive summary report; the dropping of certain studies and the reduction in the coverage of other studies; and the abandonment of the consolidation and indexing of the files. Fortunately, there is reason to hope that the files may yet be cared for under other auspices.

Notwithstanding these limitations, if the files are ultimately consolidated and indexed the exploration of the NRA materials will have been sufficient to make them accessible and highly useful. They constitute the largest and richest single body of information concerning the problems and operations of industry ever assembled in any nation.

L. C. Marshall,
Director, Division of Review.

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